June 23, 1986

THE NEW YORKER

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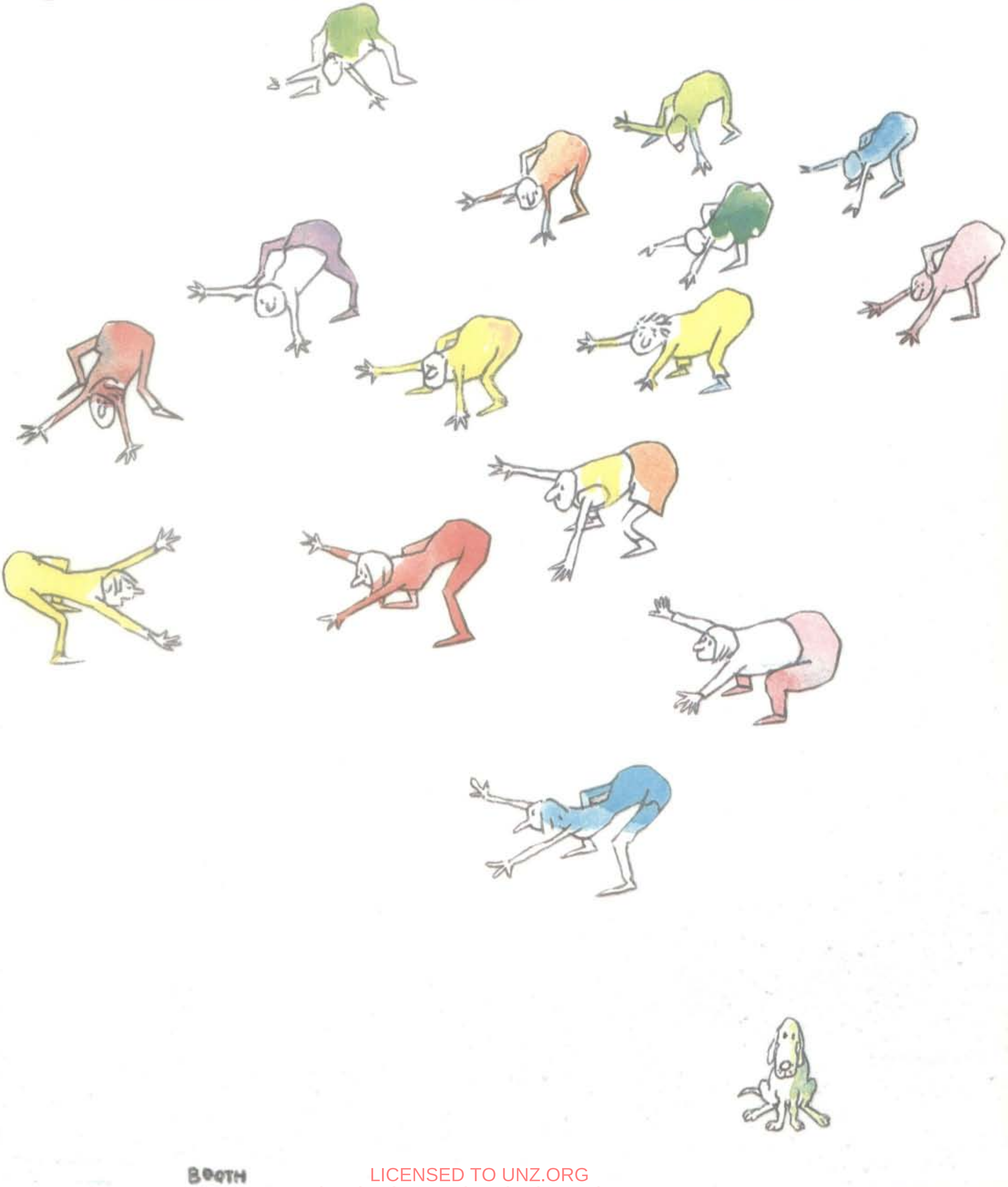

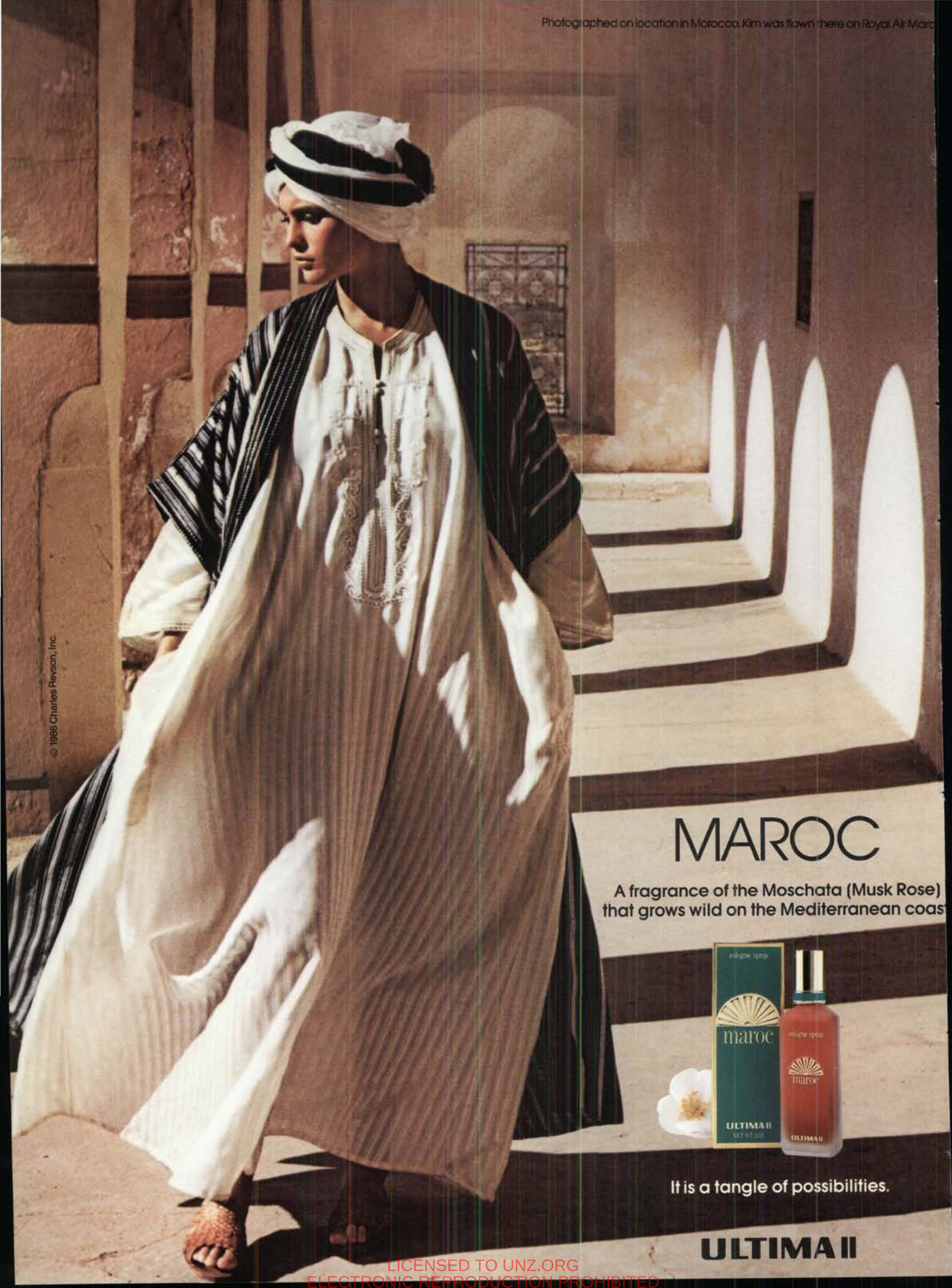
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GOINGS ON ABOUT TOWN

A CONSCIENTIOUS CALENDAR OF EVENTS OF INTEREST

THE THEATRE

PLAYS AND MUSICALS

Arsenic and Old Lace—Jean Stapleton, Tony Roberts, and Polly Holliday in a revival of the play by Joseph Kesselring. The director is Brian Murray. Previews Thursday through Wednesday, June 19-25. Opens officially on Thursday, June 26. (46th Street Theatre, 226 W. 46th St. 221-1211. Tuesdays through Saturdays at 8; opening-night curtain at 6:30. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

Aunt Dan & Lemon—A debate on the nature of good and evil, by Wallace Shawn. The director is Max Stafford-Clark. With Pamela Reed and Pippa Pearthree. (Reviewed in our issue of 11/4/85.) (Public, 425 Lafayette St. 598-7150. Tuesdays through Saturdays at 8. Matinées Saturdays and Sundays at 3.)

Benefactors—The moral of this harsh and yet continuously entertaining play by Michael Frayn is that no good deed goes unpunished. The cast consists of Maureen Anderman, David Birney, Mary Beth Hurt, and Simon Jones, and the direction is by Michael Blakemore. (1/6/86) (Brooks Atkinson, 256 W. 47th St. 719-4099. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

The Boys in Autumn—A wretched little non-play about the late years of Tom Sawyer and Huckleberry Finn. Unaccountably, George C. Scott and John Cullum have consented to appear in it. The author is Bernard Sabath. (5/12/86) (Circle in the Square, 50th St. west of Broadway. 239-6200. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

Electric Man—Phil Bruns in a comedy by Mark Eisenstein. (Actors Playhouse, 100 Seventh Ave. S. 691-6226. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7.)

The Further Adventures of Kathy and Mo—A female comedy team—occasionally funny but more often not—from San Diego, California. (Second Stage, Broadway at 76th St. 307-7171. Tuesdays through Thursdays at 8; Fridays at 7 and 10; and Saturdays at 8 and 11. Closes Saturday, June 28.)

Goblin Market—This musical, based on Christina Rossetti's erotic allegorical poem, has a charming score by Polly Pen, imaginative scenery by William Barclay, and good performances—singing and acting—by Terry Klausner and Ann Morrison. It may prove a little too fanciful for every taste, though. (4/28/86) (Circle in the Square Downtown, 159 Bleecker St. 254-6330. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.)

The Golden Land—An extremely sentimental musical about Jewish immigrants to the United States. The company of three men and three women includes an excellent singer named Marc Krause. (12/2/85) (Second Avenue Theatre, 189 Second Ave., at 12th St. 674-1460. Wednesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2:30, and Sundays at 1 and 5.)

Hamletmachine—An adaptation, by Heinrich Müller, of Shakespeare's "Hamlet." Staged by Robert Wilson. (New York University Tisch School of the Arts, 721 Broadway, at Waverly Pl. 598-7074. Mondays through Fridays at 8, and Saturdays at 6 and 9. Closes Saturday, June 28.)

The House of Blue Leaves—A splendid revival of John Guare's brilliant, ferocious comedy with Swoosie Kurtz and John Mahoney, among other fine performers. Jerry Zaks was the acute, perceptive director. (3/31/86) (Vivian Beaumont, Lincoln Center. 239-6200. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

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I'm Not Rappaport—Herb Gardner's synthetic, though often entertaining, comedy about two old men who share a bench in Central Park is given an expert performance by Cleavon Little and Judd Hirsch. (6/17/85) (Booth, 222 W. 45th St. 239-6200. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

Light Opera of Manhattan—Presenting Victor Herbert's **sweethearts.** (Cherry Lane, 38 Commerce St. 989-2020. Wednesdays through Saturdays at 8. Matinées Wednesdays at 2, and Saturdays and Sundays at 3:30.)

Long Day's Journey Into Night—A superb production of the greatest of American plays, directed by Jonathan Miller and with a cast that includes Jack Lemmon, Bethel Leslie, Peter Gallagher, and Kevin Spacey. (5/12/86) (Broadhurst, 235 W. 44th St. 239-6200. Tuesdays through Saturdays at 8. Matinées Sundays at 3. Closes Sunday, June 29.)

Loot—Joe Orton's fierce and highly polished farce about all sorts of criminal activity in England in a too mild revival, but with considerable merriment, all the same. With Joseph Maher, Zeljko Ivanek, and Zoë Wanamaker, among other good actors. John Tillinger directed. (3/3/86) (Music Box, 239 W. 45th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.)

Master Class—There are four excellent performances—by Austin Pendleton, Werner Klemperer, Len Cariou, and Philip Bosco—in David Pownall's so-so play about a confrontation, in 1948, between Prokofiev and Shostakovich and Stalin and Zhdanov. (6/16/86) (Roundabout, 100 E. 17th St. 420-1883. Tuesdays through Saturdays at 8. Matinées Wednesdays, Saturdays, and Sundays at 2. Closes Sunday, July 6.)

Mummenschanz—A return engagement by the mime-and-mask trio. (Helen Hayes, 240 W. 44th St. 944-9450. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

The Mystery of Edwin Drood—The novel that Dickens left unfinished at the time of his sudden death has been turned into a splendidly nonsensical musical by Rupert Holmes. The big cast is headed by George Rose, and the direction is by Wilford Leach. (12/16/85) (Imperial, 249 W. 45th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.)

National Lampoon's Class of '86—A revue created by Matty Simmons and other members of the magazine's editorial staff. (Village Gate, 160 Bleecker St. 475-5120. Tuesdays through Thursdays at 8, and Fridays and Saturdays at 7:30 and 10:30. Matinées Sundays at 5.)

Negro Ensemble Company—Gus Edwards' **louis**

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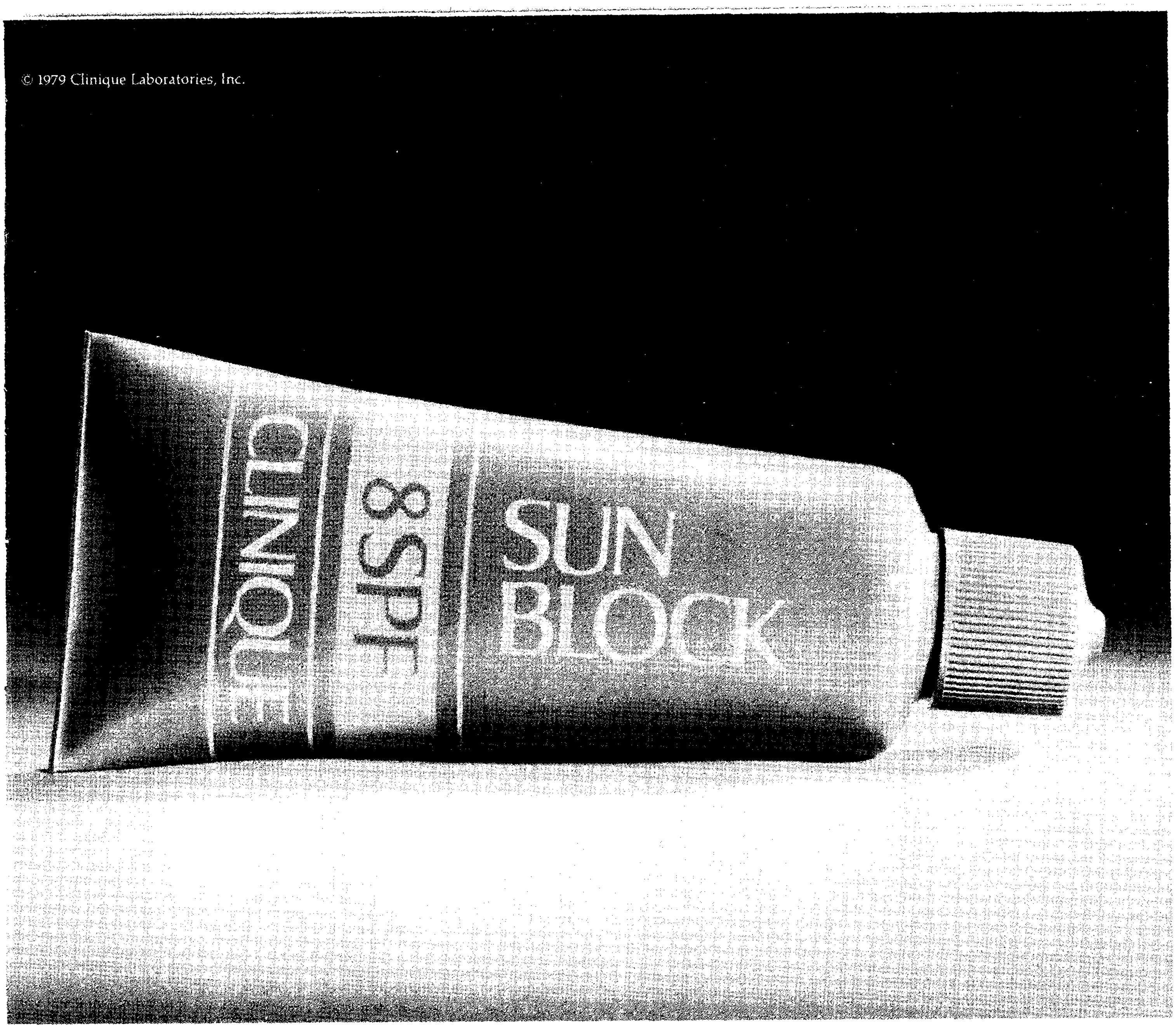

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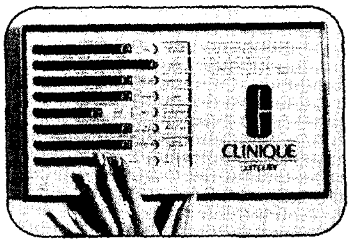

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GOINGS ON ABOUT TOWN

AND OPHELIA, about the affair of a middle-aged Bronx couple—a mismatch from the start—is as humorous as it is disturbing. Love conquers all. In the leading roles, Elain Graham and Douglas Turner Ward could not be better. Mr. Ward directed. (5/26/86) (Theatre Four, 424 W. 55th St. 246-8545. Tuesdays through Fridays at 8; Saturdays at 8:30; and Sundays at 7. Matinées Saturdays at 3 and Sundays at 2:30.)

NUNSENSE—A musical by Dan Goggin. (Sheridan Square Playhouse, 99 Seventh Ave. S. 924-7100. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.)

OLYMPUS ON MY MIND—A musical with a score by Grant Sturiale and book, lyrics, and direction by Barry Harman. (Actors' Outlet, 120 W. 28th St. Wednesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3. For tickets, call 645-0783.)

THE PERFECT PARTY—A. R. Gurney, Jr.,'s deliberately mannered comedy about a professor who is obsessed with perfection is often disappointing, but just as often Mr. Gurney's wit and high spirits break through the Wildean mold to redeem it. The acting by John Cunningham, Debra Mooney, and Charlotte Moore is very good. John Tillinger directed. (4/14/86) (Playwrights Horizons, 416 W. 42nd St. 279-4200. Moves on Tuesday, June 24, to the Astor Place Theatre, 434 Lafayette St., 254-4370. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.)

PERSONALS—A jaunty and romantic little revue about people looking for companionship of one sort or another in the classified ads. Talent abounds. Witty book and lyrics and tuneful score; performances by six gifted young actors. (Minetta Lane, 18-22 Minetta Lane, east of Sixth Ave., between W. 3rd and Bleecker Sts. 420-8000. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.)

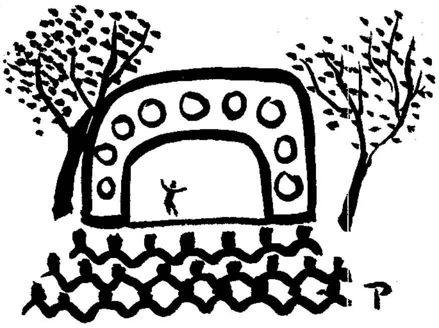
THE PETITION—Brian Clark has written a two-character play about a well-bred old couple in London, who on the brink of the grave learn a little something about themselves as they quarrel over nuclear weaponry. Jessica Tandy and Hume Cronyn lend a certain plausibility to a work unworthy of them. (5/5/86) (Golden, 252 W. 45th St. 239-6200. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

THE SEARCH FOR SIGNS OF INTELLIGENT LIFE IN THE UNIVERSE—A one-person vaudeville show, starring the antic and frantic Lily Tomlin in a series of impersonations—some harsh, some tender—written for her by Jane Wagner. (10/7/85) (Plymouth, 236 W. 45th St. 239-6200. Tuesdays through Thursdays at 8; Fridays at 7; and Saturdays at 8. Matinées Wednesdays and Saturdays at 2.)

SILLS & COMPANY—The return of Severn Darden, along with several other distinguished alumni of Paul Sills' "Second City" in Chicago, in an evening of cheerful improvisation. (Lambs, 130 W. 44th St. 997-1780. Tuesdays through Fridays at 8, and Saturdays at 7 and 10. Matinées Wednesdays at 2 and Sundays at 3.)

SOCIAL SECURITY—With his first Broadway comedy, Andrew Bergman proves a worthy successor to the Neil Simon of "Barefoot in the Park." The fine cast is composed of Marlo Thomas, Ron Silver, Kenneth Welsh, Olympia Dukakis, Joanna Gleason, and Stefan Schnabel. (4/28/86) (Ethel Barrymore, 243 W. 47th St. 239-6200. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

SONG & DANCE—Imported from England and tricked up for the American trade, this uneasy linking of song (first act) and dance (second act) is redeemed in part by the attractiveness of the chief performers, Bernadette Peters and Christopher d'Amboise. Starting Monday, June 23, Victor Barbee will replace Mr. d'Amboise. (9/30/85) (Royale, 242 W. 45th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.)



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SWEET CHARITY—A musical that, with very little alteration, has mysteriously improved with age. Directed and choreographed by Bob Fosse, it has a book by Neil Simon, songs by Cy Coleman and Dorothy Fields, settings by Robert Randolph, and a star in the person of Debbie Allen. (5/12/86) (Minskoff, 45th St. west of Broadway. 869-0550. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

TEN BY TENNESSEE—Two rotating bills of one-act plays by Tennessee Williams, presented by the Acting Company—"Auto-da-Fé," "The Strangest Kind of Romance," "A Perfect Analysis Given by a Parrot," "This Property Is Condemned," and "I Can't Imagine Tomorrow": Wednesday, June 18, and Friday, June 20, at 8; Saturday, June 21, at 10; Sunday, June 22, at 7; Tuesday, June 24, and Thursday, June 26, at 8; and Saturday, June 28, at 10. . . . ¶ "The Lady of Larkspur Lotion," "Talk to Me Like the Rain," "Portrait of a Madonna," "The Unsatisfactory Supper," and "The Long Goodbye": Thursday, June 19, at 8; Saturday, June 21, at 7; Sunday, June 22, at 3; Wednesday, June 25, and Friday, June 27, at 8; and Saturday, June 28, at 7. (6/2/86) (Lucille Lortel, 121 Christopher St. 924-8782.)

TRINITY SITE—A play by Janeice Scarbrough. (WPA Theatre, 519 W. 23rd St. 206-0523. Tuesdays through Saturdays at 8, and Sundays at 7:30. Matinées Sundays at 3. Closes Sunday, June 29.)

VIENNA: LUSTHAUS—This evocation in dance, mime, acting, and music of turbulent Vienna before the First World War is often beautiful and always entertaining. It was created and directed by the imaginative Martha Clarke, with music by Richard Peaslee—the pair responsible for "The Garden of Earthly Delights" a couple of years ago. Witty text by Charles Mee, Jr. (5/5/86) (Public, 425 Lafayette St. 598-7150. Wednesdays at 7:30 and 9:30; Thursdays at 7:30; and Fridays and Saturdays at 7:30 and 9:30. Matinées Sundays at 3.)

WRITER'S CRAMP—A comedy by John Byrne. (Hudson Guild Theatre, 441 W. 26th St. 760-9810. Wednesday through Saturday at 8, and Sunday at 7. Matinées Saturday and Sunday at 3. Closes Sunday, June 22.)

LONG RUNS—**BIG RIVER:** William Hauptman and Roger Miller have drawn an agreeably sentimental musical out of "The Adventures of Huckleberry Finn," and Mark Twain in Heaven has reason to be satisfied with the results. (Eugene O'Neill, 230 W. 49th St. 246-0220. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.) . . . **BILOXI BLUES:** A chapter in the life story of Eugene Morris Jerome, a literary stand-in for the author, Neil Simon. The time is 1943, Eugene is in the Army, and his adventures in Biloxi are truly not to be believed. The director, Gene Saks, has worked hard to squeeze the last drop of humor out of this peculiar fruit. (Neil Simon, 250 W. 52nd St. 757-8646. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2. Closes Saturday, June 28.) . . . **LA CAGE AUX FOLLES:** A musical about a pair of tenderhearted middle-aged lovers presiding over a drag-queen night club in Saint-Tropez; the production is one of the most beautiful—and extravagant—ever to reach Broadway. Jerry Herman wrote the music and lyrics; the book is by Harvey Fierstein. (Palace, Broadway at 47th St. 757-2626. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.) . . . **CATS:** Some twenty poems about cats by T. S. Eliot, set to music by Andrew Lloyd Webber. A mighty spectacle about mighty little, owing its effectiveness to Trevor Nunn's direction and to the sets and costumes by John Napier. (Winter Garden, Broadway at 50th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.) . . . **A CHORUS LINE:** A group of young dancers audition for a handful of chorus jobs in a show not yet in rehearsal, and by the time the evening is over we know everything about all of them. (Shubert, 225 W. 44th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.) . . . **THE FANTASTICKS:** 10,880 performances so far. (Sullivan Street Playhouse, 181 Sullivan St., at Bleecker St. 674-3838. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7:30. Matinées Sundays at 3.) . . . **42ND STREET:** A musical based on the old Warner Brothers movie and by no means an improvement on it. Directed and choreographed by the late Gower Champion. (Majestic, 245 W. 44th St. 239-6200. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.) . . . **LITTLE SHOP OF HORRORS:** Taking off from Roger Corman's 1960 horror quickie about a man-eating plant, this exuberant, jokey musical is wholly free of camp. The score is by Alan Menken, and Howard Ashman directed and wrote the book and lyrics. Martin P. Robinson designed the menacing plant. (Orpheum, 126 Second Ave., at 8th St. 239-6200. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7:30. Matinées Sundays at 3.) . . . **OH! CALCUTTA!:** A collection of short sketches that purport to give us a refreshing view of sex and do not. (Edison, 240 W. 47th St. 302-2302. Mondays through Fridays at 8; Saturdays at 7 and 9:30; and Sundays at 7. Matinées Sundays at 3.) . . . **PENN & TELLER:** A sublime combination of conjuring and comedy. Penn Jillette does the talking; Teller is silent. (Westside Arts, 407 W. 43rd St. 541-8394. Thursdays and Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Saturdays and Sundays at 3.)

MISCELLANY

ROY BLOUNT, JR.—Fifty very funny minutes by this humorist, appearing in the Lunchtime Humorists Series at the American Place. (111 W. 46th St. 247-0393. Tuesday, June 24, at 1; Wednesday, June 25, at noon; Thursday, June 26, and Tuesday, July 1, at 1; and Wednesday, July 2, at noon.)

SPALDING GRAY—A monologuist, presenting a final program: **SWIMMING TO CAMBODIA.** (Mitzi E. Newhouse, Lincoln Center. 239-6200. Wednesday through Saturday at 8, and Sunday at 7:30. Matinée Saturday at 2. Closes Sunday, June 22.)

FORBIDDEN BROADWAY 1986—A musical satire of Shubert Alley denizens. The lyrics to the song parodies are by Gerard Alessandrini. (Palsson's Upstairs, 158 W. 72nd St. 595-7400. Tuesdays through Thursdays at 8:30; Fridays and Saturdays at 8:30 and 11:30; and Sundays at 8:30.)

DANCE

NEW YORK CITY BALLET—Tentative schedule of final performances of the engagement—Wednesday, June 18, at 8: "Mozartiana," "Episodes," and "Serenade." . . . ¶ Thursday, June 19, at 8: "Swan Lake," "Songs of the Auvergne," and "Gershwin Concerto." . . . ¶ Friday, June 20, at 8: "Histoire du Soldat Suite," "Davidsbündlertänze," and "Serenade." . . . ¶ Saturday, June 21, at 2: "Histoire du Soldat Suite," "Gershwin Concerto," and "Slaughter on Tenth Avenue." . . . ¶ Saturday, June 21, at 8: "Mozartiana," "Histoire du Soldat Suite," and "Dances at a Gathering." . . . ¶ Sunday, June 22, at 1: "Swan Lake," "Davidsbündlertänze," and

"Serenade." . . . ¶ Sunday, June 22, at 7: "Piccolo Balletto," "Davidsbündlertänze," and "Serenade." (New York State Theatre. 870-5570.)

American Ballet Theatre—Wednesday matinée, June 18: "Symphonie Concertante," "Swan Lake Pas de Deux" (danced by Natalia Makarova and Mikhail Baryshnikov), "Dark Elegies," and "La Sonnambula." . . . ¶ Wednesday evening, June 18: "La Sonnambula," "The Mollino Room," and "Requiem." . . . ¶ Thursday and Friday evenings, June 19-20; Saturday matinée and evening, June 21; Monday and Tuesday evenings, June 23-24; and Wednesday matinée and evening, June 25: "La Bayadère." . . . ¶ Thursday and Friday evenings, June 26-27, and Saturday matinée and evening, June 28: "Romeo and Juliet." (Metropolitan Opera House. 362-6000. Evenings at 8. Matinées at 2. Through Saturday, July 5.)

Phyllis Lamhut Dance Company—Presenting "Die Bewegung," a new full-length work. (Playhouse 46, 423 W. 46th St. Wednesday through Saturday, June 18-21, at 8:30. For information about tickets, call 924-0077.)

Alok Dance Company—Presenting "Seinen," a new full-length work. (Norman Thomas Theatre, 111 E. 33rd St. Friday, June 20, at 8, and Saturday and Sunday, June 21-22, at 3 and 8. For information about tickets, call 947-4823.)

Clark Center Summer Dance Festival '86—Opening performances of an eight-week series of programs that will run through Sunday, Aug. 10—Thursday, June 19, at 8: Chiang Ching, Margaret Beals, and Bertram Ross. . . . ¶ Friday, June 20, at 8: Chiang Ching. . . . ¶ Saturday, June 21, at 8: Margaret Beals. . . . ¶ Sunday, June 22, at 5: Bertram Ross, with John Wallowitch. . . . ¶ Tuesday through Saturday, June 24-28, at 8, and Sunday, June 29, at 5: Harry Streep's Human Arms. (Douglas Fairbanks Theatre, 432 W. 42nd St. For information about tickets, call 246-4818.)

NIGHT LIFE

(A highly arbitrary listing in which bold-face type is used to pick out a few of the more notable performers in town. . . . ¶ Musicians and night-club proprietors live complicated lives that are subject to last-minute change; it is therefore always advisable to call ahead.)

Algonquin Hotel, 59 W. 44th St. (840-6800)—**JULIE WILSON,** a wonderful, engaging singer, is currently in residence in the Oak Room. Shows Tuesdays through Saturdays at nine-fifteen and eleven-fifteen. Dining.

Angry Squire, 216 Seventh Ave., at 23rd St. (242-9066)—A long, narrow, nautical bar, restaurant, and jazz haunt. Tenor saxophonist **BIG NICK NICHOLAS** is here on Friday and Saturday, June 20-21; the following Friday and Saturday, June 27-28, belong to singer Patricia Laing and singer Frank Senior, respectively. Other groups can be heard during the rest of the week. Sets begin Sundays through Thursdays at nine-thirty, and Fridays and Saturdays at ten.

Ballroom, 253 W. 28th St. (244-3005)—A neat-as-a-pin music room on the edge of Chelsea, near the flower and fur markets. **PEGGY LEE** has the stage Tuesdays and Wednesdays at nine, and Thursdays through Saturdays at nine and eleven.

Blue Note, 131 W. 3rd St., near Sixth Ave. (475-8592)—There are two groups here through Sunday, June 22: drummer **ROY HAYNES'** quartet and the Paris Reunion Band, featuring **JOE HENDERSON, WOODY SHAW, SLIDE HAMPTON, BENNY BAILEY, IDRIS MUHAMMAD,** and others. On Tuesday, June 24, singer **CARMEN MC RAE** and her trio come in. Shows from about nine. Jean Toussaint heads a jam session every night but Monday after the last set until about four in the morning. Dining.

Bottom Line, 15 W. 4th St., at Mercer St. (228-6300)—The oh-so-varied roster: Wednesday, June 18, Nicolette Larson and Steve Earle; Thursday and Friday, June 19-20, the Strawbs; Saturday and Sunday, June 21-22, and Tuesday, June 24, the R. & B. group **TOWER OF POWER,** with **FOURTEEN KARAT SOUL;** Monday, June 23, the Official Good-Will Tour of the Texas Sesquicentennial, featuring Bobby Bridger, Allen Damron, **BOB GIBSON,** Steve Fromholz, Butch Hancock, Bill & Bonnie Hearne, **CAROLYN HESTER, RAY WYLIE HUBBARD,** and accordionist **SANTIAGO JIMENEZ, JR.;** Wednesday and Thursday, June 25-26, Glaswegian troubadour **DONOVAN** and the Legendary Wid; and Friday and Saturday, June 27-28, singer-songwriter **JANIS IAN,** with Ron Darian. Shows Sundays through Thursdays at eight and eleven, and Fridays and Saturdays at eight-thirty and eleven-thirty. Dining.

Bradley's, 70 University Pl., at 11th St. (228-6440)—A great, up-close view from a bar stool (unless there are a lot of standees, which is usually the case) of first-rate duos. Pianist **KENNY WERNER** and bassist **RUFUS REID** are here through Saturday, June 21; on Sunday, June 22, **JIMMY ROWLES,** a wonderful and witty pianist, and bassist **GEORGE MRAZ** begin a stint. Music from nine-forty-five. Dining.

Carlos I, 432 Sixth Ave., at 10th St. (982-3260)—Long communal tables swathed in pink cloths and a bandstand panelled in oak. The driving, visionary pianist **CECIL TAYLOR** leads a sextet through Sunday, June 22; on Tuesday, June 24, ex-Basie-ites **FRANK WESS** and **FRANK FOSTER** bring in their quintet. Shows at nine and eleven, with an extra show at twelve-thirty on Fridays and Saturdays. No music Mondays. Dining.

Carlyle Hotel, Madison Ave. at 76th St. (744-1600)—**BOBBY SHORT** (see page 95, this issue), the vigorous interpreter of show, movie, and pre-punk popular music, is in the Café Carlyle, along with his trusty sidekicks, **BEVERLY PEER** and **ROBBIE SCOTT.** Their hours are Tuesdays through Saturdays at ten and midnight. . . . **BARBARA CARROLL** is in the Bemelmans Bar at the piano, soloing and singing from ten Tuesdays through Saturdays.

CBGB & OMFUG, 315 Bowery, at Bleecker St. (982-4052)—Rock and roll as a garage industry. Sundays and Mondays are showcase nights. Music from long after nine-thirty.

Fat Tuesday's, 190 Third Ave., at 17th St. (533-7902)—A snazzy downstairs jazz club. The master, **DIZZY GILLESPIE,** and his quintet are in it Tuesdays through Sundays; Mondays are once again the property of guitarist and recording innovator **LES PAUL** and his trio. Sets begin at nine. Dining.

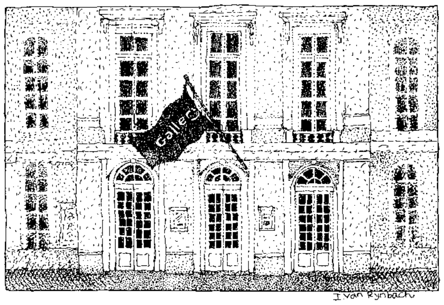
Freddy's, 308 E. 49th St. (888-1633)—**CAROL SLOANE** sings while under the influence of Ella, with support from pianist **JOHN BUNCH** and bassist **PHIL FLANIGAN,** through Saturday, June 21. Shows Wednesday and Thursday at nine, and Friday and Saturday at nine and eleven. Dining.

Gregory's, 1149 First Ave., at 63rd St. (371-2220)—Wednesdays through Saturdays belong to the trio of vocalist Alicia Sherman, pianist Peter Madsen, and bassist Phil Bowler; Sundays and Mondays, Joe Derise sings and plays piano with accompaniment from bassist John Dooley; and Tuesdays are reserved for guitarist **CHUCK WAYNE'S** trio. All these groups begin about ten.

Hanratty's, 1754 Second Ave., at 91st St. (289-3200)—The dining-room grand is in the hands of Jim Badzik through Saturday, June 21; starting Tuesday, June 24, the exemplary stride-piano specialist **DICK WELLSTOOD** takes over again. Sundays are claimed by Amy Duncan, and Mondays by **DICK HYMAN.** Music Sundays through Thursdays from eight-thirty, and Fridays and Saturdays from nine. Dining.

Knickerbocker Saloon, 33 University Pl., at 9th St. (228-8490)—A bar and restaurant in the piano-bass district. Ex-Dizzy G. pianist **JUNIOR MANCE** works with bassist **MARTY RIVERA** Tuesdays through Saturdays. Music from nine-thirty.

Lone Star Café, 61 Fifth Ave., at 13th St. (242-1664)—A spirited, noisy, crowded hangout for expatriate Texans and French tourists, where they celebrate Texas Independence Day but not Bastille Day. On Wednesday and Thursday, June 18-19, veteran bluesmen **BUDDY GUY** and **JUNIOR WELLS** will raise the roof; on Friday and Saturday, June 20-21, **COMMANDER CODY** and Tommy Joe White hold forth. Also on the bill are **WHO IT IS,** featuring **CORNELL DUPREE,** Sunday and Monday, June 22-23; the **NEW SAM & DAVE REVUE,** starring the same Dave (Prater) and a new Sam (Daniels), Tuesday, June 24; and Texas blues guitarist and singer **JOHNNY COPELAND** Friday and Saturday, June 27-28. Music after nine nightly. Dining.



Michael's Pub, 211 E. 55th St. (758-2272)—The former proprietors of that movable feast called Eddie Condon's, guitarist **RED BALABAN** and cornettist **ED POLCER,** are housed here temporarily, along with other eminent Condon-club alumni. **WILD BILL DAVISON, ART HODES, PEANUTS HUCKO, SCOTT HAMILTON, TOM ARTIN, MARTY NAPOLEON, GEORGE MASSO, JACK LESBERG,** and Danny D'Imperio are scheduled to appear with Balaban and Polcer through Saturday, June 21. Starting Tuesday, June 24, Balaban, Polcer, Artin, Masso, and Lesberg will be joined by another gang of Condonites, including **JOHN BUNCH, JANE JARVIS,** and **JOE MURANYI.** Shows at nine and eleven Tuesdays through Saturdays. On Monday nights from nine-thirty to midnight, Woody Allen is likely to show up to play celebrity clarinet with a New Orleans-style sextet. Dining. Closed Sundays.

Mikell's, 760 Columbus Ave., at 97th St. (864-8832)—A worthy jazz and rhythm-and-blues haunt. The roll: Wednesday, June 18, Marc Wagnon; Thursday, June 19, Rock Wilk; Friday and Saturday, June 20-21, singer **CISSY HOUSTON;** Thursday, June 26, Daniel Wilensky; and Friday and Saturday, June 27-28, guitarist **DOC POWELL.** Music from about ten until two. Dining.

Ritz, 119 E. 11th St. (254-2800)—A big, fancy (but the appropriate dress is black sneakers rather than black tie) thirties ballroom, complete with eighties video, that presents past, present, future, past-perfect, present-perfect, future-perfect, and imperfect forms of rock and roll. The performers: Friday and Saturday, June 20-21, the Replacements; Wednesday, June 25, when the club turns six, Founding Father **CHUCK BERRY,** with **RON WOOD** and others; Thursday, June 26, ex-Animal **ERIC BURDON;** Friday, June 27, the Pogues; and Saturday, June 28, Katrina & the Waves. The shows begin at nine Sundays through Thursdays, and at eleven Fridays and Saturdays. Dancing.

Sounds of Brazil, 204 Varick St., at W. Houston St. (243-4940)—Brazilian music, African music, salsa music, reggae music, and American music. The lineup: Wednesday, June 18, the Itals; Thursday, June 19, **EDDIE PALMIERI,** with **MARIO RIVERA** & the Salsa Refugees; Friday, June 20, and Friday and Saturday, June 27-28, **PÉ-DE-BOI;** Saturday, June 21, **MIKATA;** Tuesday, June 24, **AZYMUTH** and Marcos Auriel; and Wednesday and Thursday, June 25-26, drummer **MAX ROACH** and his band, M'Boom. Music from nine Tuesdays through Thursdays, and from eleven Fridays and Saturdays. Dining. Closed Sundays and Mondays.

Sweet Basil, 88 Seventh Ave. S., at Bleecker St. (242-1785)—Alto saxophonist **PHIL WOODS** leads a quintet through Sunday, June 22, and on Tuesday, June 24, kinetic drummer **ART BLAKEY & THE JAZZ MESSENGERS** roar in. Mondays are turned over to pianist, composer, and sage **GIL EVANS** and his enthusiastic **ORCHESTRA.** Shows from about ten. Dining.

Tramps, 125 E. 15th St. (777-5077)—A refreshingly simple and basic (in the age of extravagance), non-trendy blues and rock club. Friday, June 20, **ELLIOTT MURPHY;** Saturday, June 21, Kristi Rose & the Dying Breed; Monday, June 23, **JUMP STREET;** Tuesday, June 24, Danny Shea & the Bullies; and Friday and Saturday, June 27-28, blues pianist **PINETOP PERKINS.** Shows after nine-thirty.

Village Gate, 160 Bleecker St. (475-5120)—On Monday nights after nine, the vast downstairs space—there is room to dance—belongs to salsa bands; on June 23, guest jazz soloist **FRANK WESS** joins **MANNY OQUENDO'S LIBRE** and **GRUPO FASCINACIÓN.** . . . ¶ Upstairs, in the Terrace Bar, pianist **ELLIS LARKINS** and bassist **BILLY POPP** perform nightly, except Mondays. Jazz harpist **DAPHNE HELLMAN** is also present,

GOINGS ON ABOUT TOWN

with a trio, on Tuesdays. Music from nine-thirty.

Village Vanguard, 178 Seventh Ave. S., at 11th St. (255-4037)—This hallowed basement establishment is the most famous jazz club in the world. A good trio (pianist **Tommy Flanagan**, bassist **George Mraz**, and drummer **Al Foster**) plays here through Sunday, June 22; on Tuesday, June 24, pocket trumpeter and free spirit **Don Cherry** arrives with his quartet. Mondays remain prime time for the **Mel Lewis Orchestra.** Music from ten.

West End, 2911 Broadway, at 113th St. (666-8750)—The big room in this student rest stop (Columbia U. is across the street) has a non-institutional cafeteria, a bar that can seat a marching band, and a jukebox. The smaller room has foursquare tables and booths, and live music. Pianist **Bill Mays** and his trio are on the bandstand through Sunday, June 22; the Jeff Fuller Four, featuring singer Judy Niemack, take over on Wednesday, June 25. Mondays and Tuesdays are comedy nights. Shows from about nine.

Zinno, 126 W. 13th St. (924-5182)—A ground-floor town-house restaurant, bar, and jazz nook. Pianist **Jane Jarvis** (who used to accompany the Mets on the Shea Stadium organ) and bassist **Milt Hinton** are in residence through Saturday, June 21; starting Sunday, June 22, longtime collaborators **Gene Bertoncini** (guitar) and **Michael Moore** (bass) will play Mr. Bertoncini's arrangements of Bach and Chopin—and Ellington and Strayhorn, too. Music weeknights from eight and Sundays from seven.

JAZZ/FOLK/ROCK CONCERTS, PERSONAL APPEARANCES, ETC.

JVC Jazz Festival—Opening performances in a ten-day series that will be taking place in various halls around the city; on a Hudson River Day Liner; in Waterloo Village, Stanhope, N.J.; and at the Performing Arts Center in Saratoga Springs. For Saratoga listings, see page 9, under Music in the Country. For information about tickets to anything, anywhere, call 787-2020. First performance on Friday, June 20, at 6:30: Barry Harris, solo piano. (Bruno Walter Auditorium, New York Public Library at Lincoln Center.) . . . ¶ Friday, June 20, at 8: Ella Fitzgerald. (Avery Fisher Hall.) . . . ¶ Friday, June 20, at 8: Count Basie Orchestra. (Hudson River Day Liner, Pier 81, Twelfth Ave. at 41st St.) . . . ¶ Saturday, June 21, from 3 to 9: "Piano Spectacular," with Dick Hyman, Rio Clemente, Joanne Brackeen, and others. (Waterloo Village.) . . . ¶ Saturday, June 21, at 6:30: Ellis Larkins, solo piano. (Bruno Walter Auditorium, New York Public Library at Lincoln Center.) . . . ¶ Saturday, June 21, at 7 and 11: Miles Davis and Spyro Gyra. (Avery Fisher Hall.) . . . ¶ Saturday, June 21, at 8: Lester Bowie's Brass Fantasy and the Ganelin trio. (Town Hall, 123 W. 43rd St.) . . . ¶ Sunday, June 22, from 1 to 9: Bucky and John Pizzarelli, Dick Wellstood, the Cayenne Jazz Band, and others. (Waterloo Village.) . . . ¶ Sunday, June 22, at 8: Herbie Hancock's quartet and Out of the Blue. (Avery Fisher Hall.) . . . ¶ Sunday, June 22, at 8: A tribute to Bill Davison, with Art Hodes, Eddie Miller, Milt Hinton, Yank Lawson, and others. (Town Hall.) . . . ¶ Monday, June 23, at 6:30: Dick Wellstood, solo piano. (Bruno Walter Auditorium, New York Public Library at Lincoln Center.) . . . ¶ Monday, June 23, at 8: David Chertok's "Jazz Legends on Film," featuring Coleman Hawkins, Earl Hines, and others. (Kaufmann Concert Hall, 92nd Street Y, Lexington Ave. at 92nd St.) . . . ¶ Monday, June 23, at 8:30: Jimmy Cobb, Stafford James, Curtis Fuller, and others. (St. Peter's Church, Lexington Ave. at 54th St.) . . . ¶ Tuesday, June 24, at 6:30: Andy LaVerne, solo piano. (Bruno Walter Auditorium, New York Public Library at Lincoln Center.) . . . ¶ Tuesday, June 24, at 8: Sarah Vaughan and Billy Eckstine. (Avery Fisher Hall.) . . . ¶ Tuesday, June 24, at 8: Chico Hamilton and the Young Altos. (St. Peter's Church, Lexington Ave. at 54th St.) Once again, for information about tickets to any of the above, call 787-2020.

Julian Lennon—Radio City Music Hall, Sixth Ave. at 50th St. 757-3100. Wednesday, June 18, at 8.

S	M	T	W	T	F	S
			18	19	20	21
22	23	24	25	26	27	28

Dio—Madison Square Garden. 564-4400. Friday, June 20, at 8.

Bob Mintzer Big Band—Symphony Space, Broadway at 95th St. 864-5400. Friday, June 20, at 8.

Jaki Byard & the Apollo Stompers—Jazz Cultural Theatre, Eighth Ave. between 28th and 29th Sts. 502-4300. Friday through Sunday, June 20-22, at 10 and midnight.

Steeleye Span and **Leo Kottke**—With Mimi Fariña. (Beacon Theatre, Broadway at 74th St. 787-1477. Saturday, June 21, at 8.)

Robert Klein—Nederlander Theatre, 208 W. 41st St. Wednesday, June 25, at 7 and 10. For information about tickets, call 977-9020.

GTR—With Steve Hackett and Steve Howe. (Beacon Theatre. Wednesday, June 25, at 8.)

Billy Ocean—With Meli'sa Morgan. (Radio City Music Hall. Friday, June 27, at 8.)

James Hambric—Symphony Space. Friday, June 27, at 9.

Tangerine Dream—Beacon Theatre. Saturday, June 28, at 8.

Jazz Center of New York—Friday, June 20, at 9:30 and 11: Oscar Brown, Jr. . . . ¶ Saturday, June 21, at 9: Frank Owens in a tribute to Eubie Blake. . . . ¶ Thursday, June 26, at 8: Kenwood Denard. . . . ¶ Friday and Saturday, June 27-28, at 9:30 and 11: Billy Harper quintet. (380 Lafayette St. 505-5660.)

ART

(Unless otherwise noted, galleries are open Tuesdays through Saturdays from around 10 or 11 to between 5 and 6.)

GALLERIES—UPTOWN

Jean-Baptiste Camille Corot (1796-1875) **and Eugène Delacroix** (1798-1863)—A loan show of paintings, drawings, and prints by each of these artists. Through Friday, June 27. (Salander-O'Reilly, 22 E. 80th St. Open Mondays; closed Saturdays.)

Alan Falk—Paintings of beach scenes, for the most part. Through Friday, June 27. (Perlow, 980 Madison Ave., at 76th St. Open Mondays; closed Saturdays.)

Ken Friedman—Posterlike paintings expanding on Nordic myths, by a member of the Fluxus group. Through Saturday, June 28. (Schlesinger-Boisanté, 822 Madison Ave., at 69th St.)

Matta—Large pastel drawings inspired by Don Quixote. Through June 30. (Spanish Institute, 684 Park Ave., at 68th St. Open Mondays.)

Paul Resika—Watercolors of the pier in Provincetown, among other paintings. Through July 2. (Graham, 1014 Madison Ave., at 78th St. Open Mondays; closed Saturdays.)

Tony Smith (1912-80)—Abstract paintings from the fifties and sixties; also, bronzes cast in smaller sizes than the larger-scale originals. Through Saturday, June 21. (Fourcade, 36 E. 75th St.)

Graham Snow—Wall constructions by a British artist who has a penchant for the obelisks and architectural follies of his homeland. Through July 31. (Vanderwoude Tananbaum, 24 E. 81st St.)

Willard Gallery Anniversary—The gallery has mounted the works of artists it has sponsored since 1974, Lois Lane, Donald Sultan, Susan Rothenberg among them, in the second of two fiftieth-anniversary exhibits in memory of its founder, Marian Willard Johnson. Through Friday, June 27. (Willard, 29 E. 72nd St. Open Mondays; closed Saturdays.)

Group Shows—At the **CDS Gallery,** 13 E. 75th St.: Jacobo Borges, Roxi Marsen, and Jim Peters are among fifteen artists represented by paintings and works on paper. Through July 25. (Open Mondays; closed Saturdays.) . . . **Center for African Art,** 54 E. 68th St.: "African Aesthetics: The Carlo Monzino Collection," comprising works in wood, mainly, but also in gold, ivory, bronze, stone, and terra-cotta, and including the famous "Black Venus." Through Sept. 7. (Open Sundays, noon to 5.) . . . **Hirschl & Adler Modern,** 851 Madison Ave., at 70th St.: Four paintings by Joe Zucker from the early seventies (his cotton-ball period), two sculptures from the mid-seventies by Christopher Wilmarth, and four paintings from the sixties by Cy Twombly. Through Friday, June 27. (Open Mondays; closed Saturdays.) . . . **Stone,** 48 E. 86th St.: Paintings of New York City by Ray Kass, New England genre scenes painted on steel saws by Jacob Kass, and kinetic sculptures by Roy Superior. Through July 2. (Open Mondays; closed Saturdays.) . . . **Wildenstein,** 19 E. 64th St.: A benefit show of about a hundred paintings and works on paper from the Princeton University Art Museum. These works—by Europeans and Americans—include a Degas "Dancers," Ammi Phillips's "The Girl in Pink," and Willem de Kooning's "Black Friday." Through Friday, June 27. (Open Mondays; closed Saturdays.)

GALLERIES—57TH STREET AREA

Jean-Pierre Bertrand—An installation of steel-framed works containing sheets of paper that have been rubbed with lemon, honey, salt, or natural pigment. Through Friday, June 27. (Zabriskie, 724 Fifth Ave., at 57th St. Open Mondays.)

Louise Bourgeois—New abstract sculptures. Through Friday, June 20. (Robert Miller, 41 E. 57th St.)

Peter Charles / Colin Smith—Small sculptural wall pieces in steel and wood, most of them involving a vase and its pedestal. / Paintings of figures, nearly always seen from the back at the moment of departure—one leaving a swimming pool, another entering a car. Through Saturday, June 21. (Siegel, 24 W. 57th St.)

Lisa Dinhofer—Still-life scenes: bottles, marbles, plates, glasses, doilies, mats, etc. Through Saturday, June 21. (Schmidt Bingham, 41 W. 57th St.)

Robert Henri (1865-1929)—Thirty-three paintings, including portraits, nudes, Spanish subjects, and cityscapes of Paris and Philadelphia. Through July 18. (Berry-Hill, 743 Fifth Ave., at 57th St. Open Mondays; closed Saturdays.)

Hilda Morris—Bold Sumi paintings in black, white, and gray, in most of which familiar forms are treated as abstractions. Through Friday, June 27. (Kraushaar, 724 Fifth Ave., at 57th St. Open Mondays; closed Saturdays.)

Picasso (1881-1973)—Two exhibitions. Olympian doodles extracted from forty-five sketchbooks detailing the artist's day-to-day work. (He kept a hundred and seventy-five sketchbooks during his life.) Through Aug. 1. (Pace, 32 E. 57th St.) . . . ¶ A loan show of fifty drawings that are being shown in public for the first time. Through Friday, June 27. (Mazoh, 13 E. 76th St. Open Mondays; closed Saturdays.) . . . ¶ P.S.: Picasso is also represented at Pace-MacGill (see below, under "Photography").

Lawrence Poons / Sam Francis—Large-scale can-vases in which thickly applied paint is underlaid with rope and spongy materials. / Paintings and works on paper executed between 1955 and 1963. Through July 3. (Emmerich, 41 E. 57th St. Open Mondays; closed Saturdays.)

Orfeo Tamburi—Paintings of Paris. Through Friday, June 27. (Marisa del Re, 41 E. 57th St. Open Mondays; closed Saturdays.)

Group Shows—At the **BORGENICHT,** 724 Fifth Ave., at 57th St.: Nonobjective and abstract styles predominate in an invitational show of paintings by Peggy Cyphers, Tom Fellner, Carl Goldhagen, Royce Howes, Kristin Jones and Andrew Ginzel, and Bill Komoski, and a single sculpture by Steve Currie. Through July 3. . . . **DE NAGY,** 41 W. 57th St.: Paintings and sculptures by Robert Goodnough, Stanley Boxer, Ron Gorchov, Tony Robbin, and others. Through July 24. . . . **GALERIE ST. ETIENNE,** 24 W. 57th St.: Works on paper, including prints, by Klimt, Schiele, and Kokoschka. Through Sept. 12. (Closed Saturdays.) . . . **HEESY,** 50 W. 57th St.: Works on paper by Janet Stayton, Petey Brown, Richard Carboni, and Lynda Sandhaus. Through July 31. (Closed Saturdays.) . . . **MIDTOWN,** 11 E. 57th St.: Paintings, drawings, and sculptures by gallery members, including Isabel Bishop and Paul Cadmus. Through July 11. (Open Mondays; closed Saturdays.) . . . **PROTETCH,** 37 W. 57th St.: More than two hundred original contemporary architectural drawings. Through Saturday, June 21. . . . **ALEX ROSENBERG,** 20 W. 57th St.: Works that incorporate a window motif—constructions by Ilse Getz, paintings and pastels by Howard Kanovitz, and figure and still-life paintings and drawings by Manoucher Yektai. Through July 11. (Open Mondays.) . . . **HOLLY SOLOMON,** 724 Fifth Ave., at 57th St.: Paintings and sculptures by ten young Italian artists. Through July 25. (Open Mondays.) . . . **TATISTCHEFF,** 50 W. 57th St.: Two painters new to the gallery, Margaret Bowland (portraits) and Harry Orlyk (plein-air landscapes), are represented along with regular members. Through July 31. (Open Mondays; closed Saturdays.)

Sculpture—At the **MARIAN GOODMAN,** 24 W. 57th St.: One work each by Richard Artschwager, Jannis Kounellis, Luciano Fabro, Richard Serra, and Claes Oldenburg and Coosje van Bruggen, the latter two collaborating on a large, diverting piece involving a hammer, a screwdriver, and a pair of pliers in a balletic pose. Through Saturday, June 28. (Open Mondays.) . . . **HERSTAND,** 24 W. 57th St.: An all-American, all-abstraction selection, with pieces by Bourgeois, Calder, Wilmarth, Joel Fisher, and others. Through July 31. . . . **PEARL,** 38 E. 57th St.: Figurative sculptures by William King, Marisol, Linda Peer, and others. Through July 31. (Closed Saturdays.)

GALLERIES—SoHo

James Brook / George Spaventa (1918-78)—Abstract Expressionist works on paper. / Sculptures and drawings. Through July 3. (Gruenebaum, 415 West Broadway.)

Wendell Castle—Sculptures taking off from the furniture designs for which he is known. Through July 18. (Milliken, 98 Prince St.)

Carole Eisner—Recent abstract paintings. Through July 31. (Segal, 568 Broadway.)

Robert Ferrandini—Both Turner and the Hudson River school are among the antecedents for these deft and amusing paintings (oil on paper), which range from the firestorm that swept Boston in 1872 to a neat little house on the back of a whale in a tempest-tossed sea. Through Saturday, June 28. (Munroe, 415 West Broadway.)

Betti-Sue Hertz / Eliot Lable—Paintings of figures. / Sculptures and drawings. Through Saturday, June 21. (55 Mercer Street Gallery.)

Per Kirkeby—Large abstract paintings characterized by broad slashes of rich, contrasting colors. Through Saturday, June 28. (Boone, 417 West Broadway.)

Cecile Opron—Paintings of the seaside at Marina del Rey in California—works that remain clean-cut and crisp although some of them incorporate a touch of mist drifting in from the water. Through June 29. (Littlejohn-Smith, 133 Greene St. Open Sundays at 1.)

Marsha Pels / Joseph Haske—Large-scale bronze sculptures. / Abstract acrylics. Through Saturday, June 28. (Oscarsson Siegeltuch, 568 Broadway, entrance on Prince St.)

Martin Ramirez (1885-1960)—Sixty-one drawings by an artist who was an institutionalized schizophrenic and whose obsession with trains comes through clearly. Through Saturday, June 28. (Kind, 136 Greene St.)

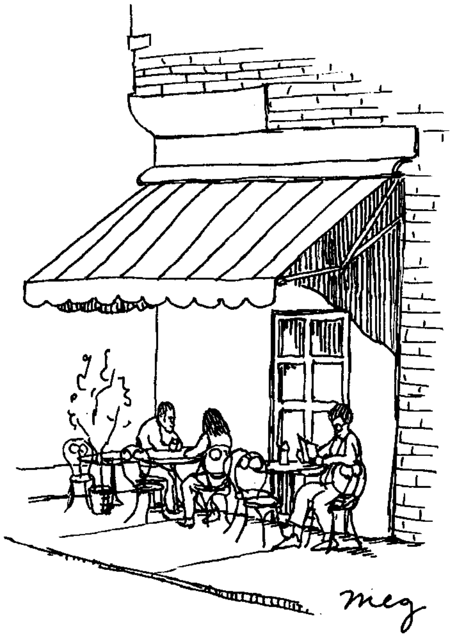
Ce Roser—Abstractions in oils. Through Saturday, June 21. (Ingber, 415 West Broadway.)

Hilda Steckel / James Pile—Caricaturelike sculptures of sunbathers, bird-watchers, or swimmers done in ceramic and bronze, and scaled to three-quarter size. / Paintings of the adventures of a cartoon character, Arizona Kid, roaming the Southwest and New York. Through Saturday, June 28. (Steinbaum, 132 Greene St.)

Osami Tanaka—Sculptural pieces ranging from small columns to an eight-foot wall sixteen feet long, made of unlikely combinations of wood, steel, and paraffin; the latter adds a nice translucent quality to the works. Through Saturday, June 28. (Cutler, 164 Mercer St.)

Shelley M. Warren / Jacqueline Conderacci—Large sculptures made of cement or wood or steel, among them a sort of whirligig, twelve feet long, which has a series of six-bladed propellers arrayed on a metal shaft. Through July 11. / Photographs of doorknobs and various kinds of door locks. Through Saturday, June 21. (O. K. Harris, 383 West Broadway.)

Group Shows—At the **ALLEN,** 110 Greene St.: Works on paper and sculptures by Siri Berg, Babe Shapiro, Barbara Thomas, and others. Through July 15. . . . **BROWN,** 100 Greene St.: Abstractions (sculptures and drawings) by James Casebere, Abraham David Christian, Perry Hoberman, Hilary Kliros, Ellen Rumm, and Tad Wiley. Through Friday, June 27. (Open Mondays; closed Saturdays.) . . . **CONDESO-LAWLER,** 76 Greene St.: An invitational show of abstract paintings by seventeen artists, among them Richard Pugliese (who selected the works), Pat Colville, and Edwin Ruda. Through Saturday, June 28. . . . **COWLES,** 420 West Broadway: Agnes Martin, Morris Louis, and Barnett Newman are three of the ten artists represented in an exhibit examining the use of the stripe motif in contemporary painting. Through July 11. . . . **THE DRAWING CENTER,** 137 Greene St.: A show entitled "The Northern Landscape: Flemish, Dutch, and British Drawings from the Courtauld Collections" contains some of the major exponents of the landscape genre between the sixteenth century and the nineteenth, among them Bruegel (Pieter, the Elder), Collaert, Constable, and Turner. Through July 26. (Open Wednesday evenings until 8.) . . . **EXIT ART,** 578 Broadway: Bertha Urdang is the curator of an exhibit of paintings, sculptures, and photographs by eight contemporary Israeli artists. Through July 12. (Opens at noon.) . . . **GERMANS VAN ECK,** 420 West Broadway: Paintings and sculptures by gallery members Susan Laufer and Donald Lipski, among others. Through Aug. 1. . . . **GLADSTONE,** 99 Greene St.: Paintings by Helmut Federle, Olivier Mosset, John Armleder, and Gerwald Rockenschaub. Through July 25. . . . **NOSEI,** 100 Prince St.: Visionary landscape paintings by Tod Wizon, a painting in mixed mediums by Brigitta Rohrbach, a large diptych by Chuck Connelly, and other works. Through July 25. . . . **PLUMB,** 81 Greene St.: Sculptures and paintings by seventeen artists, who include Jacques Flèchemuller, Brian Williams, and Hal Saulson. Through July 25. . . . **SPERONE WESTWATER,** 142 Greene St.: Seven artists (including Joseph Beuys, Lucian Freud, and Richard Long), each represented by drawings from several points in their careers. Through July 31. . . . **WEBER,** 142 Greene St.: Wall works by Dorothea Rockburne, Judy Pfaff, Michael Glier, Vernon Fisher, Sol LeWitt, and Krzysztof Wodiczko. Through July 25.



Sculpture—At the **ALEXANDER,** 59 Wooster St.: The six young sculptors invited to show their pieces here are Andrew Menard, Ann Messner, Dick Miller, Cara Perlman, Jeanne Silverthorne, and Cindy Tower. Through July 3. (Open Mondays.) . . . **GIBSON,** 568 Broadway: Tony Cragg, Mario Merz, Lawrence Weiner, and others. Through July 31. . . . **GREEN,** 152 Wooster St.: Wall, floor, and freestanding abstract pieces by twenty-two artists, among them Lindsay Walt, Stephen Whisler, and Sydney Blum. Through July 5.

OTHER GALLERIES

Marc Blane / Roxanne Blanchard—Small sculptural works by a native of the lower East Side who uses basketball backboards and uprooted trees, among other symbols, to make his points. / Drawings of bowls and vases done on frosted plate glass that is lighted from behind with neon; some have recirculating water trickling over them. Through June 29. (P.P.O.W, 337 E. 8th St., near Avenue C. Opens at noon Wednesdays through Sundays.)

Murray Hochman—Abstract paintings done in thick impasto on irregularly shaped panels, plus paintings collaged with Japanese prints and lacquered. Through June 29. (Jus de Pomme, 338 E. 11th St. Opens at 1 Wednesdays through Sundays.)

Charles Luce—Mixed-medium constructions. Through Sunday, June 22. (Stokker Stikker, 506 E. 6th St. Opens at 1 Wednesdays through Sundays.)

Edgar Negret—Impressive but relatively small-scale sculptures by this Colombian artist who works exclusively in aluminum and paints it black, white, red, or yellow. Through Saturday, June 28. (Humphrey, a new gallery at 242 E. 5th St. Opens at noon.)

Jo Shane—Wrought-iron sculptures that look like drawings—nudes, animals, still-lifes. Through July 3. (Bromm, 170 Avenue A, at 11th St. Opens at noon Wednesdays through Sundays.)

Todt—A collaborative group of two brothers, a sister, and a fourth artist, who specialize in black humor—for instance, a fearsome medical diagnostic device made of found radio parts, plastic tubing, a metal seat, and the like; and a penny savings bank made from a derringer clamped to the back of a bronze head of Lincoln. Through July 6. (Casas Toledo Oosterom, a new gallery at 235 E. 4th St. Opens at noon Wednesdays through Sundays.)

Group Shows—At the **ALA,** 32 W. 20th St.: Eric Bainbridge, Michael Chandler, and Alison Wilding are among the gallery artists represented by paintings and sculptures. Through July 11. . . . **AREA X,** 200 E. 10th St.: Landscape paintings and drawings by nine artists. Through July 11. (Opens at noon Wednesdays through Saturdays, at 1 Sundays.) . . . **ARTISTS SPACE,** 223 West Broadway: Fanciful architectural projects seen in drawings and models; included is a scale model, by Douglas Darden, of a proposed Museum for Imposters, to be built on the present site of Fort McHenry, in Baltimore. Through Saturday, June 28. . . . **AUDIELLO,** 436 E. 11th St., near Avenue A: An exhibit entitled "Red" has drawn works from a dozen artists, among them David Diao, Donald Judd, and Philip Taaffe. Through Sunday, June 22. (Opens at 1 Wednesdays through Sundays.) . . . **AVENUE B GALLERY,** 167 Avenue B, at 11th St.: Four

GOINGS ON ABOUT TOWN

artists, from Germany, Scotland, Austria, and France, are participating in the initial Avenue Biennale. Through July 27. (Opens at noon Wednesdays through Sundays.) . . . **BAUM,** 109 Hudson St.: Painted constructions by Helmut Amann, figurative paintings by Stefan Roloff, and prints by Stephen Sholinsky. Through July 19. (Open Mondays.) . . . **BOND,** 30 Bond St.: Forty-one well-chosen pieces by full-time workers in local art institutions. Among the works are a "Destroyed Membership Application" from the Modern, by Eric Edgerton, who obliterated the form with a pen-and-ink design, and "Train Station," a vintage photographic print skillfully amended with a pencil, by Miles Aronowitz. Through June 29. (Opens at 1 Wednesdays through Sundays.) . . . **GREENWALD,** 181 Mott St.: Abstract paintings and drawings by three established artists, William Fares, Robert Yucikas, and Jerry Zeniuk, and two emerging artists, Fredda Mekul and Hal Saulson. Through July 21. . . . **POSTMASTERS,** 66 Avenue A, near 4th St.: David Diao and Aimee Rankin are among the eight gallery artists showing paintings and wall constructions. Through July 13. (Opens at noon Wednesdays through Sundays.)

PHOTOGRAPHY

BILL BRANDT (1904-83) / **PICASSO** (1881-1973)—Vintage photographs of nudes. / Manipulated and cutout prints resembling his Cubist paintings. Also, portraits of the artist made by his contemporaries—Man Ray, Irving Penn, Robert Capa. Through Aug. 1. (Pace-MacGill, 11 E. 57th St.)

HORST / MARINA SCHINZ—Photographs of flowers by each, in garden settings by Miss Schinz. Through Aug. 1. (Staley-Wise, 177 Prince St. Opens at noon.)

JOHN THOMSON (1837-1921)—Albumin prints and carbon prints of the Orient by a Scottish photographer. Through Aug. 3. (Asia Society, 725 Park Ave., at 70th St. Opens at noon on Sundays.)

JANE TUCKERMAN—Photographs of Benares, India, taken in conjunction with the documentary film "Forest of Bliss;" also, paintings and collages. Through July 11. (Witkin, 415 West Broadway. Opens at noon on Saturdays.)

NEIL WINOKUR—Clusters of photographs, each cluster representing a single art-world figure—Jon Hassell, William Wegman, Cindy Sherman, and others. The group for Sherman shows a wig, a mask she picked up in Nicaragua, and herself—as is and disguised as a man. Through Saturday, June 28. (Toll, 146 Greene St.)

GROUP SHOWS—At **A.I.R.,** 63 Crosby St.: More than fifty women photographers, including Berenice Abbott, Jill Krementz, Mary Lucier, Sylvia Plachy, and Deborah Turbeville. Through Saturday, June 21. . . . **LAURENCE MILLER,** 138 Spring St.: Photographs and works that incorporate photographs, by Lee Friedlander, Sandra Haber, Gary Brotmeyer, and others. Through July 26. . . . **PFEIFER,** 568 Broadway: Photographs used as part of three-dimensional objects—especially freestanding screens—by nine contemporary artists, among them Russell Drisch, Gerald Incandela, and Grace Knowlton. Through Friday, June 27.

MUSEUMS AND LIBRARIES

METROPOLITAN MUSEUM, Fifth Ave. at 82nd St.—A chronological arrangement of the school of Nuremberg's Gothic and Renaissance works of art, including oversize carved-oak statues of Christ and the Virgin by Veit Stoss, Dürer's sketch for a chandelier in the shape of a dragon and the finished chandelier itself, and brass sculptures by Peter Vischer the Elder. Through Sunday, June 22. . . . ¶ "Costumes of Royal India," an extravaganza of garments and accessories evoking palaces of the nineteenth and twentieth centuries. Through Aug. 31. (Open daily except Mondays. Hours: Tuesdays through Sundays, 9:30 to 5:15, and Tuesday evenings until 8:45.)

MUSEUM OF MODERN ART, 11 W. 53rd St.—A comprehensive selection of prints by Jasper Johns. Through Aug. 19. (Open daily, except Wednesdays, 11 to 6, and Thursday evenings until 9.)

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GUGGENHEIM MUSEUM, Fifth Ave. at 89th St.—Recent work by Enzo Cucchi, including eight large paintings, a two-part sculpture, and drawings. . . . ¶ A show of approximately a hundred and twenty drawings and watercolors from the twenties by German realists. Both shows through July 6. (Open daily except Mondays. Hours: Tuesdays, 11 to 8, with no admission charge from 5 to 8; Wednesdays through Sundays, 11 to 5.)

WHITNEY MUSEUM OF AMERICAN ART, Madison Ave. at 75th St.—Shaker design, exemplified by furniture, textiles, farming equipment, cooking utensils, etc., plus several watercolors done as religious tokens. Through Aug. 31. . . . ¶ An exhibit entitled "Sacred Images in Secular Art" consists of paintings, sculptures, and photographs by a dozen contemporary artists, Italo Scanga, Audrey Flack, and Joel-Peter Witkin among them. Through July 13. (Open daily except Mondays. Hours: Tuesdays, 1 to 8, with no admission charge after 6; Wednesdays through Saturdays, 11 to 5; Sundays, noon to 6.)

BROOKLYN MUSEUM, Eastern Parkway—The Third Western States Exhibition: a hundred and twenty-seven works by forty-five artists, most of whom have not shown their art in our region before. Through Aug. 4. . . . ¶ A show of thirty-four paintings, drawings, and prints by Cézanne on loan from the Henry and Rose Pearlman Foundation. Through July 14. . . . ¶ Paintings, drawings, and sculptures by the nineteenth-century American artist William Rimmer, including two of his best-known works—the bronze "Falling Gladiator" and the oil "Flight and Pursuit." Through July 28. (Open daily except Tuesdays. Hours: Mondays and Wednesdays through Fridays, 10 to 5; Saturdays, 11 to 6; Sundays, 1 to 6.)

AMERICAN MUSEUM OF NATURAL HISTORY, Central Park W. at 79th St.—An exhibit of contemporary North American Indian objects, crafted, of course, according to traditional methods. Textiles, pottery, baskets, jewelry, and carvings. (Open daily. Hours: Mondays, Tuesdays, Thursdays, and Sundays, 10 to 5:45; Wednesdays, 10 to 9; Fridays and Saturdays, 10 to 9, with no admission charge after 5.)

COOPER-HEWITT MUSEUM, Fifth Ave. at 91st St.—A record of the career of dancer-choreographer Bronislava Nijinska. This record includes costumes designed for her by Natalia Gontcharova and Léon Bakst; set designs by Max Ernst and Joan Miró; and a musical score for her ballet "Le Baiser de la Fée" in the handwriting of Igor Stravinsky. The dancer herself is seen in photographs of Diaghilev's Ballets Russes, among others. Through July 13. . . . ¶ The virtuosity of Hungarian metalsmiths is underscored in a display of gold and silver objects dating from the ninth century to the nineteenth. Through Aug. 10. (Open daily except Mondays. Hours: Tuesdays, 10 to 9, with no admission charge after 5; Wednesdays through Saturdays, 10 to 5; Sundays, noon to 5.)

JAPAN HOUSE, 333 E. 47th St.—A show of Japanese porcelains, first and foremost (but also Japanese-influenced wares from China and Europe), which were exported to England when a passion for Arita and Kakiemon gripped collectors there. These particular pieces are from Burghley House and most appear on its inventory lists dated 1688 and 1690. Through July 27. (Open daily, except Mondays, 11 to 5.)

MORGAN LIBRARY, 29 E. 36th St.—A show of drawings, watercolors, prints, and photographs (some of the latter by Beato, Frith, and Bourne) that document British rule in India. Through July 31. (Open daily except Mondays. Hours: Tuesdays through Saturdays, 10:30 to 5; Sundays, 1 to 5.)

MUSEUM OF THE CITY OF NEW YORK, Fifth Ave. at 104th St.—A show that reports on just how excited the citizens of New York were when the Statue of Liberty was dedicated, in October, 1886, and on the events that led up to it; photographs, a painting by Edward Moran, models, and memorabilia. (Open daily except Mondays. Hours: Tuesdays through Saturdays, 10 to 5; Sundays, 1 to 5.)

NATIONAL ACADEMY OF DESIGN, 1083 Fifth Ave., at 89th St.—Drawings and models by British architects, primarily, spanning three hundred years—from Inigo Jones to Sir Edwin Lutyens. The subjects are generically called country houses but are known individually as Hampton Court Palace, Blenheim, Castle Drogo, etc. Through June 29. (Open daily except Mondays. Hours: Tuesdays, noon to 8, with no admission charge after 5; Wednesdays through Sundays, noon to 5.)

NEW YORK PUBLIC LIBRARY, Fifth Ave. at 42nd St.—A twelve-foot painted-plaster diorama of the Statue of Liberty made by its sculptor, Bartholdi, will salute visitors to a scholarly tribute entitled "Liberty: The French-American Statue in Art and History." Taking care of the art part will be models, maquettes, photographs, and paintings, showing both the influences on the statue's design and some of the art engendered by it; the history section will detail funding, construction, shipping, negotiations, and the 1886 dedication by President Cleveland. Starts Saturday, June 21. (Open daily, except Sundays, 10 to 6.)

ART AFTER DARK

(Performance, music, dance, video, film, and combinations thereof.)

THE KITCHEN, 512 W. 19th St. 255-5793—"The Second Trilogy: Chekhov, Strindberg, and Brecht," three short performance works by Stuart Sherman. Thursday, June 26, at 8, and Friday and Saturday, June 27-28, at 8 and 10:30.

P.S. 122, 150 First Ave., at 9th St. 477-5288—Performance. John Bernd, Michael Stiller, David Zambrano, and Danny Mydlack, Friday through Sunday, June 20-22, at 9. . . . ¶ William Wert, Friday through Sunday, June 20-22, at 11:30. . . . ¶ "Splatter," a new work by Charles Moulton, Thursday through Monday, June 26-30, at 9, and Friday and Saturday, June 27-28, at 11 . . . . ¶ Jim Neu, Fridays at 10:30. . . . ¶ Beth Lapides, Saturdays at 10:30.

NOTE—Mary and Bill Buchen will present music, dance, and performance works, with Nigel Rollings and the Glenn-Lund Dance Company, at Roulette, 228 West Broadway, Friday through Sunday, June 27-29, at 9. (For information about tickets, call 982-1743.) . . . ¶ Creative Time has opened its summer program at the Brooklyn Bridge Anchorage, Front St. (Brooklyn), with a play by Matthew Maguire called "The Memory Theatre of Giulio Camillo." Through June 29. (Wednesdays through Sundays at 7:30; for tickets, call 619-1955.) . . . ¶ Also, installations by artists and architects, created for the theatre piece, are on view. Through July 13. (Wednesdays through Saturdays, noon to 6; Sundays, noon to 3.)

MUSIC

ST. LUKE'S CHAMBER ENSEMBLE—A benefit program of string quartets. (St. Luke in-the-Fields, 487 Hudson St., at Grove St. Wednesday, June 18, at 8. For information about tickets, call 226-1115.)

KAREN HUTCHINSON—Piano. (Merkin Concert Hall, Abraham Goodman House, 129 W. 67th St. 362-8719. Thursday, June 19, at 8.)

GOLDEN FLEECE, LTD.—Presenting Jack Gottlieb's "Movie Opera (Prevue)," a work for soprano, clarinet, cello, and piano; and Myron Fink's one-act opera "The Island of Tomorrow," with a libretto by Lou Rodgers. (Actors' Outlet Theatre, 120 W. 28th St. Thursday and Friday, June 19-20, at 8; Saturday, June 21, at 3 and 8; and Sunday, June 22, at 3 and 7. For tickets, call 691-6105.)

An Evening of Bel Canto—Performed by Evelyn Quaife, soprano; Adelle Nicholson, mezzo-soprano; Dale Smith, tenor; and Abe Polokoff, baritone. (Merkin Concert Hall. Saturday, June 21, at 9.)

American Composers Orchestra—Paul Dunkel conducting, with Perry Robinson, clarinet. (Merkin Concert Hall. Monday, June 23, at 8.)

Syrinx—With Josephine Mongiardo, soprano, in a program of chamber music. Also, the Farrington Company, a small theatrical group performing works by its founder, Thomas Farrington. (St. Stephen's Church, 122 W. 69th St. Tuesday, June 24, at 8. Tickets at the door on the night of the concert.)

Note—Western Wind will give a recital in the Garden Court of the Frick Collection (1 E. 70th St.) on Wednesday, July 2, at 5:30. Free tickets, limited to two per applicant, will be issued starting Monday, June 23, in the order that written applications are received on that day (not before). A self-addressed envelope should be enclosed.

IN THE COUNTRY

Tanglewood Festival—Opening performances of the season, which will run through Sunday, Aug. 31—Friday, June 27, at 7: Malcolm Frager, piano, in an all-Weber program. . . . ¶ Friday, June 27, at 9: Charles Dutoit conducting the Boston Symphony in a varied program, with Marilyn Horne, mezzo-soprano. . . . ¶ Saturday, June 28, at 8:30: Charles Dutoit conducting a Weber-Stravinsky program, with Mr. Frager. . . . ¶ Sunday, June 29, at 2:30: Charles Dutoit directing an all-Mozart program, with Benita Valente, soprano; Mark DuBois, tenor; John Ostendorf, bass; and the Tanglewood Festival Chorus. (Lenox, Mass. For information about tickets, call 1-413 637-1666.)

Caramoor Festival—Opening performances of the season, which will run through Sunday, Aug. 24. Saturday, June 28, at 8:30: John Nelson conducting the Orchestra of St. Luke's, with Nadja Salerno-Sonnenberg, violin. . . . ¶ Sunday, June 29, at 5:30: The Waverly Consort, in a program of Spanish music. (Katonah, N.Y. On Saturdays, trains will leave Grand Central Terminal at 12:48, 2:48, and 5:48, and will be met at Katonah by buses for Caramoor. For information about tickets and trains, call 1-914 232-5035.)

Saratoga Performing Arts Center—The NEW YORK CITY OPERA will present a one-week engagement in its début appearance here, with performances of "Carmen" on Wednesday, June 18, and Sunday, June 22, and "Candide" Thursday through Saturday, June 19-21, all at 8:15. . . . SPECIAL CONCERTS: Monday, June 23, at 8:15: The Beach Boys. . . . ¶ Tuesday, June 24, at 8:15: Jackson Browne. . . . ¶ Two twelve-hour offerings of the JVC JAZZ FESTIVAL—Saturday, June 28, at noon: Lionel Hampton and his orchestra, Mel Tormé, the Stan Getz quartet, Al DiMeola, and others. . . . ¶ Sunday, June 29, at noon: Miles Davis, B.B. King, the Gerry Mulligan quartet, and others. (Saratoga Springs. For information about tickets through June 24, call 977-9020, in New York. For information about tickets to the JVC Jazz Festival, call 787-2020, in New York.)

Jacob's Pillow Dance Festival—Opening performances of the season of ballet, modern, and ethnic dancing. Sunday, June 22, at 3: Pilobolus Dance Theatre and dancers Merrill Ashley and John Meehan, in a benefit performance. . . . ¶ Tuesday through Thursday, June 24-26, at 8; Friday, June 27, at 8:30; and Saturday, June 28, at 2 and 8:30: The Paul Taylor Dance Company. (Becket, Mass. For information about tickets, call 1-413 243-0745.)

SPORTS

Baseball—YANKEES at Yankee Stadium: Vs. Boston, Wednesday, June 18, at 7:30. . . . ¶ Toronto, Friday, June 27, at 7:30, and Saturday, June 28, at 1:30. . . . METS at Shea Stadium: Vs. Chicago, Thursday and Friday, June 19-20, at 7:35, and Saturday and Sunday, June 21-22, at 1:35. . . . ¶ Montreal, Monday and Tuesday, June 23-24, at 7:35, and Wednesday, June 25, at 1:35.

Boxing—A closed-circuit telecast from Las Vegas of the Thomas Hearns–Mark Medal WBC Super Welterweight Championship bout, the Barry McGuigan–Steve Cruz WBA Featherweight Championship bout, and the Roberto Duran–Robbie Sims middleweight elimination bout. Also, three live bouts in situ. (Madison Square Garden. 564-4400. Monday, June 23, at 7.)

Racing—At BELMONT: Daily, except Tuesdays, at 1; through Monday, July 28. The Hill Prince, Saturday, June 21; the True North Handicap, Sunday, June 22; and the Sheepshead Bay Handicap, Saturday, June 28. (Frequent trains leave Penn Station for the track Mondays and Wednesdays through Fridays between 10:45 and 1:13, and Saturdays and Sundays between 11:01 and 1:19.) . . . MONMOUTH PARK, Oceanport, N.J.: Weekdays at 1:30; through Saturday, Aug. 30. . . . ATLANTIC CITY, Mays Landing, N.J.: Mondays and Wednesdays through Saturdays at 7:30, from Friday, June 20, through Saturday, Aug. 30.

Trotting—At YONKERS RACEWAY: Nightly at 8; through Sunday, Aug. 3. . . . SARATOGA RACEWAY, Saratoga Springs: Tuesdays through Saturdays at 8; through Saturday, Nov. 22. . . . MEADOWLANDS: Weeknights at 8; through Saturday, Aug. 2.

ET ALIA

Auctions—At Sotheby's, York Ave. at 72nd St. (Exhibition hours: Tuesdays through Saturdays, 10 to 5; Sundays, 1 to 5.)—Friday, June 20, at 10:15 and 2: Twentieth-century decorative arts. . . . ¶ Thursday, June 26, at 2: American furniture, folk art, and silver. Exhibition starts Saturday, June 21.

THE GREAT OUTDOORS

New York Shakespeare Festival—Free performances of TWELFTH NIGHT, with F. Murray Abraham and Peter MacNicol, will start on Friday, June 20, and run through Sunday, July 20. The first of three productions to be presented in the Delacorte Theatre this summer. (Central Park near W. 81st St. Nightly, except Mondays, at 8. For information about tickets, call 861-7277.)

Metropolitan Opera, Concert Productions—SNUG HARBOR, Staten Island: Wednesday, June 18, at 8 (rain date, June 19), "Roméo et Juliette," with Gail Robinson, John Fowler, Brian Schexnayder, and Paul Plishka; conducted by John Mauceri. . . . MARINE PARK, Brooklyn: Friday, June 20, at 8 (rain date, June 22), "Aida," with Aprile Millo, Grace Bumbry, Ernesto Veronelli, and Louis Quilico; Nello Santi. . . . CUNNINGHAM PARK, Queens: Saturday, June 21, at 8 (rain date, June 22), "Roméo et Juliette," with the same cast as June 18. . . . CENTRAL PARK'S GREAT LAWN: Monday, June 23, at 8 (rain date, June 26), "Roméo et Juliette," with the same cast as June 18. . . . BOTANICAL GARDEN, the Bronx: Wednesday, June 25, at 8 (rain date, June 26), "Aida," with Lucine Amara, Grace Bumbry, Ernesto Veronelli, and George Fortune; Nello Santi.

Music Festival on the Pier—Opening concerts in the Miller beer people's summer series, running through Saturday, Sept. 13. Monday, June 23: Mike & the Mechanics. . . . ¶ Thursday, June 26: Stevie Ray Vaughan & Double Trouble and the Fabulous Thunderbirds. . . . ¶ Friday, June 27: Chick Corea's Elektric Band, the Wayne Shorter Quartet, and Al DiMeola. (Pier 84, Twelfth Ave. at 45th St. Evenings at 7:30. For information about tickets, call 249-8870.)

Damrosch Park, Lincoln Center—The Serena Dance Theatre in a program of ethnic dances. (Saturday, June 21, at 8.) . . . ¶ Ainslee Cox conducting the Goldman Memorial Band in this summer's series of concerts, which will start on Wednesday, June 25. (Wednesdays through Fridays and Sundays at 8.)

Walking Tour—A conducted tour of Brooklyn Heights, sponsored by the Museum of the City of New York. Sunday, June 22, starting at Borough Hall, Brooklyn, at 1:30. (For information about tickets, call 534-1672.)

Brooklyn Botanic Garden—The Cranford Rose Garden is open for the season, with more than six thousand rosebushes representing seven hundred varieties. (Tuesdays through Fridays, 9 to 4:30; Saturdays and Sundays, 10:30 to 4:30.)

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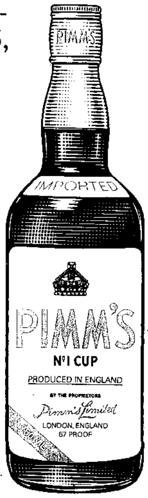

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GOINGS ON ABOUT TOWN

THE MOVIE HOUSES

EAST SIDE

Little Theatre, Public Theatre, 425 Lafayette St. (598-7171; theatre opens in the late afternoon and is closed Mondays.)
Through June 19: "Eléna et les Hommes" (†) and "Dreamchild" (†).
June 20-26: "The Wall" (1983; directed by Yilmaz Güney; in Turkish); and "Dreamchild" (†).
From June 27: "Carmen Jones" (†) and "Dreamchild" (†).

Movieland 8th Street Triplex, 36 E. 8th. (477-6600)
Theatre 1: Through June 19: Theatre closed. From June 20: "Legal Eagles" (Ivan Reitman), with Robert Redford, Debra Winger, and Daryl Hannah.
Theatre 2: Through June 19: Theatre closed. From June 20: "Legal Eagles."
Theatre 3: Through June 19: Theatre closed. From June 20: "Poltergeist II: The Other Side" (Brian Gibson), with JoBeth Williams and Craig T. Nelson.

Gramercy, Lexington at 23rd. (475-1660)
Through June 19: "SpaceCamp" (Harry Winer), with Kate Capshaw and Lea Thompson.
From June 20: To be announced.

Bay Cinema, 2nd Ave. at 32nd. (679-0160)
Through June 26: "The Manhattan Project" (Marshall Brickman), with John Lithgow.
From June 27: "Ruthless People" (Jerry Zucker, Jim Abrahams, and David Zucker), with Danny DeVito, Judge Reinhold, Helen Slater, and Bette Midler.

Murray Hill, 160 E. 34th. (685-7652)
Through June 19: "Cobra" (George P. Cosmatos), with Sylvester Stallone.
From June 20: "Big Trouble" (John Cassavetes), with Peter Falk and Alan Arkin.

Loews 34th Street Showplace, 238 E. 34th. (532-5544)
Theatre 1: "Top Gun" (†).
Theatre 2: "Back to School" (Alan Metter), with Rodney Dangerfield.
Theatre 3: "Ferris Bueller's Day Off" (John Hughes), with Matthew Broderick.

34th St. East, 241 E. 34th. (683-0255)
Through June 19: "Raw Deal" (John Irvin), with Arnold Schwarzenegger.
From June 20: "The Karate Kid: Part II" (John G. Avildsen), with Ralph Macchio and Noriyuki (Pat) Morita.

Eastside Cinema, 3rd Ave. at 55th. (755-3020)
"At Close Range" (James Foley), with Sean Penn and Christopher Walken.

Sutton, 3rd Ave. at 57th. (759-1411)
"The Manhattan Project" (Marshall Brickman), with John Lithgow.

Gotham Cinema, 3rd Ave. at 58th. (759-2262)
"SpaceCamp" (Harry Winer), with Kate Capshaw and Lea Thompson.

Plaza, 42 E. 58th. (355-3320)
"Big Trouble" (John Cassavetes), with Peter Falk and Alan Arkin.

Manhattan I and 2, 3rd Ave. at 59th. (935-6420)
Theatre 1: "F/X" (†).
Theatre 2: "Invaders from Mars" (Tobe Hooper), with Karen Black.

Baronet and Coronet, 3rd Ave. at 59th. (355-1663)
Theatre 1: Through June 19: "Letter to Brezhnev" (Chris Bernard). From June 20: "The Karate Kid: Part II" (John G. Avildsen), with Ralph Macchio and Noriyuki (Pat) Morita.
Theatre 2: Through June 19: "Not Quite Paradise" (Lewis Gilbert). From June 20: To be announced.

D. W. Griffith, 235 E. 59th. (759-4630)
Through June 26: "Bliss" (Ray Lawrence).
From June 27: "Hannah and Her Sisters" (†).

Cinema I and II, 3rd Ave. at 60th. (753-6022/0774)
Theatre 1: "Mona Lisa" (†).
Theatre 2: "A Great Wall" (Peter Wang; in English and Mandarin).

Gemini I and 2, 2nd Ave. at 64th. (832-1670)
Theatre 1: "Short Circuit" (John Badham), with Ally Sheedy and Steve Guttenberg.
Theatre 2: "Back to School" (Alan Metter), with Rodney Dangerfield.

Beekman, 2nd Ave. at 66th. (737-2622)

8TH STREET PLAYHOUSE
M. IAN

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FILMS ACCOMPANIED BY A DAGGER ARE DESCRIBED IN THE "IN BRIEF" SECTION, STARTING ON PAGE 12.

Through June 26: "Hannah and Her Sisters" (†).
From June 27: "Ruthless People" (Jerry Zucker, Jim Abrahams, and David Zucker), with Danny DeVito, Judge Reinhold, Helen Slater, and Bette Midler.

Loews New York Twin I and 2, 2nd Ave. at 67th (744-7339)
Theatre 1: "Raw Deal" (John Irvin), with Arnold Schwarzenegger.
Theatre 2: "Ferris Bueller's Day Off" (John Hughes), with Matthew Broderick.

68th St. Playhouse, 3rd Ave. at 68th. (734-0302)
"3 Men and a Cradle" (Coline Serreau; in French).

Loews Tower East, 3rd Ave. at 71st. (879-1313)
"Legal Eagles" (Ivan Reitman), with Robert Redford, Debra Winger, and Daryl Hannah.

U. A. East, 1st Ave. at 85th. (249-5100)
"Back to School" (Alan Metter), with Rodney Dangerfield.

Loews Orpheum I and 2, 3rd Ave. at 86th. (289-4607)
Theatre 1: "Top Gun" (†).
Theatre 2: "Poltergeist II: The Other Side" (Brian Gibson), with JoBeth Williams and Craig T. Nelson.

86th St. East, 3rd Ave. at 86th. (249-1144)
"The Manhattan Project" (Marshall Brickman), with John Lithgow.

R.K.O. Century 86th St. Twin, Lexington at 86th. (289-8900)
Theatre 1: "Cobra" (George P. Cosmatos), with Sylvester Stallone.
Theatre 2: Through June 26: "Invaders from Mars" (Tobe Hooper), with Karen Black. From June 27: "Labyrinth" (Jim Henson), with David Bowie and Jennifer Connelly.

WEST SIDE

Film Forum I and 2, 57 Watts St. (431-1590; Mondays through Fridays, theatre opens in the late afternoon.)
Theatre 1: Through June 24: "The Eyes of the Birds" (1982; directed by Gabriel Auer; in French), with Roland Amstutz. From June 25: "Karl May" (1974; Hans-Jürgen Syberberg; in German), with Helmut Kautner.
Theatre 2: Through June 19: "The Cosmic Eye" (Faith Hubley), a full-length animated film. June 20-22: "The 400 Blows" (1959; François Truffaut; in French), with Jean-Pierre Léaud; and "Shoot the Piano Player" (1960; François Truffaut; in French), with Charles Aznavour. June 23-24: "That Obscure Object of Desire" (1977; Luis Buñuel; in French), with Fernando Rey, Carole Bouquet, and Angela Molina; and "Viridiana" (1961; Luis Buñuel; in Spanish). June 25: "Boudu Saved from Drowning" (†) and "Madame Bovary" (1934 †). June 26-28: "The Rules of the Game" (1939; Jean Renoir; in French), with Marcel Dalio and Nora Gregor; and "La Grande Illusion" (1937; Jean Renoir; in French), with Erich von Stroheim, Jean Gabin, Pierre Fresnay, and Marcel Dalio.

Bleecker St. Cinema I and 2, 144 Bleecker St. (674-2560)
Theatre 1: Through June 19: "Home of the Brave" (Laurie Anderson), with Anderson. From June 20: "Trouble in Mind" (†).
Theatre 2: Through June 26: A program of animated short films. From June 27: "Flood Stage."

Waverly I and 2, 6th Ave. at 3rd. (929-8037)
Theatre 1: Through June 19: "Signal 7" (†). June 20-26: To be announced. From June 27: "Labyrinth" (Jim Henson), with David Bowie and Jennifer Connelly.
Theatre 2: Through June 26: "Absolute Beginners" (†). From June 27: "Ruthless People" (Jerry Zucker, Jim Abrahams, and David Zucker), with Danny DeVito, Judge Reinhold, Helen Slater, and Bette Midler.

8th St. Playhouse, 52 W. 8th. (674-6515; Mondays through Fridays, theatre opens in the late afternoon.)
"Brazil" (†).

R.K.O. Art Greenwich Twin, Greenwich Ave. at 12th. (929-3350)
Theatre 1: "The Manhattan Project" (Marshall Brickman), with John Lithgow.
Theatre 2: "Sweet Liberty" (†).

Quad Cinema, 34 W. 13th. (255-8800)
Theatre 1: "Desert Hearts" (Donna Deitch).
Theatre 2: "F/X" (†).
Theatre 3: "Hannah and Her Sisters" (†).
Theatre 4: "Invaders from Mars" (Tobe Hooper), with Karen Black.

23rd St. West Triplex, 333 W. 23rd. (989-0060)
Theatre 1: "Raw Deal" (John Irvin), with Arnold Schwarzenegger.
Theatre 2: Through June 19: "At Close Range" (James Foley), with Sean Penn and Christopher Walken. From June 20: "The Karate Kid: Part II" (John G. Avildsen), with Ralph Macchio and Noriyuki (Pat) Morita.
Theatre 3: Through June 19: "Short Circuit" (John Badham), with Ally Sheedy and Steve Guttenberg. From June 20: "The Karate Kid: Part II."

Guild, 33 W. 50th. (757-2406)
"Big Trouble" (John Cassavetes), with Peter Falk and Alan Arkin.

57th St. Playhouse, 110 W. 57th. (581-7360)
Through June 26: "Hannah and Her Sisters" (†).
From June 27: "Spring Symphony" (Peter Schamoni; in German), with Nastassja Kinski.

New Carnegie, 225 W. 57th. (582-4582)
"Belizaire, the Cajun" (Glen Pitre), with Armand Assante.

Paris, 4 W. 58th. (688-2013)
"A Room with a View" (†).

Cinema 3, 2 W. 59th. (752-5959)
"The Manhattan Project" (Marshall Brickman), with John Lithgow.

Loews Paramount, B'way at 61st. (247-5070)
"Ferris Bueller's Day Off" (John Hughes), with Matthew Broderick.

Lincoln Plaza I, 2, and 3, B'way at 63rd. (757-2280)
Theatre 1: "Vagabond" (†).
Theatre 2: "Tea in the Harem" (Mehdi Charef; in French).
Theatre 3: "The Trip to Bountiful" (†).

Cinema Studio I and 2, B'way at 66th. (877-4040)
Theatre 1: "Ran" (†).
Theatre 2: Through June 19: "What Hap-

pened to Kerouac?" (Richard Lerner and Lewis MacAdams), a documentary. From June 20: "Letter to Brezhnev" (Chris Bernard).

Embassy 72nd St. 1 and 2, B'way at 72nd. (724-6745)
Theatre 1: "My Beautiful Laundrette" (†).
Theatre 2: "Hard Choices" (Rick King).

Loews 84th Street Sixplex, B'way at 84th. (877-3600)
Theatre 1: "Legal Eagles" (Ivan Reitman), with Robert Redford, Debra Winger, and Daryl Hannah.
Theatre 2: "At Close Range" (James Foley), with Sean Penn and Christopher Walken.
Theatre 3: "Back to School" (Alan Metter), with Rodney Dangerfield.
Theatre 4: "Top Gun" (†).
Theatre 5: Through June 19: "SpaceCamp" (Harry Winer), with Kate Capshaw and Lea Thompson. From June 20: "The Karate Kid: Part II" (John G. Avildsen), with Ralph Macchio and Noriyuki (Pat) Morita.
Theatre 6: "Short Circuit" (John Badham), with Ally Sheedy and Steve Guttenberg.

Olympia Quad, B'way at 107th. (865-8128)
Theatre 1: Through June 19: "Cobra" (George P. Cosmatos), with Sylvester Stallone. From June 20: To be announced.
Theatre 2: Through June 26: "Raw Deal" (John Irvin), with Arnold Schwarzenegger. From June 27: "Labyrinth" (Jim Henson), with David Bowie and Jennifer Connelly.
Theatre 3: Through June 19: "Invaders from Mars" (Tobe Hooper), with Karen Black. From June 20: "Big Trouble" (John Cassavetes), with Peter Falk and Alan Arkin.
Theatre 4: "Back to School" (Alan Metter), with Rodney Dangerfield.

TIMES SQUARE AREA

Criterion Theatres, B'way at 44th. (354-0900)
Theatre 1: "SpaceCamp" (directed by Harry Winer), with Kate Capshaw and Lea Thompson.
Theatre 2: "Raw Deal" (John Irvin), with Arnold Schwarzenegger.
Theatre 3: "The Color Purple" (†).
Theatre 4: "8 Million Ways to Die" (†).
Theatre 5: "Hannah and Her Sisters" (†).
Theatre 6: Through June 19: "F/X" (†). From June 20: "Sweet Liberty" (†).

Embassy 1, B'way at 46th. (757-2408)
Through June 26: "Short Circuit" (John Badham), with Ally Sheedy and Steve Guttenberg.
From June 27: "Ruthless People" (Jerry Zucker, Jim Abrahams, and David Zucker), with Danny DeVito, Judge Reinhold, Helen Slater, and Bette Midler.

Embassy 2, 3, and 4, B'way at 47th. (730-7262)
Theatre 2: "Desert Bloom" (Eugene Corr), with Jon Voight and JoBeth Williams.
Theatre 3: "Down and Out in Beverly Hills" (†).
Theatre 4: "Demons" (Lamberto Bava).

Loews Astor Plaza, B'way at 44th. (869-8340)
"Top Gun" (†).

Loews State 1 and 2, B'way at 45th. (575-5060)
Theatre 1: "Legal Eagles" (Ivan Reitman), with Robert Redford, Debra Winger, and Daryl Hannah.
Theatre 2: "Poltergeist II: The Other Side" (Brian Gibson), with JoBeth Williams and Craig T. Nelson.

New Embassy 49th Street, Seventh Ave. at 49th. (757-7003)
"Sleeping Beauty" (1959), a full-length Walt Disney cartoon.

R.K.O. Century National Twin, B'way at 44th. (869-0950)
Theatre 1: Through June 26: "Jo Jo Dancer, Your Life Is Calling" (†). From June 27: "Labyrinth" (Jim Henson), with David Bowie and Jennifer Connelly.
Theatre 2: "The Manhattan Project" (Marshall Brickman), with John Lithgow.

R.K.O. Century Warner Twin, B'way at 47th. (975-8369)
Theatre 1: "Invaders from Mars" (Tobe Hooper), with Karen Black.
Theatre 2: "Cobra" (George P. Cosmatos), with Sylvester Stallone.

U. A. Twin 1 and 2, B'way at 49th. (247-1635)
Theatre 1: Through June 19: "At Close Range" (James Foley), with Sean Penn and Christopher Walken. From June 20: To be announced.
Theatre 2: "Back to School" (Alan Metter), with Rodney Dangerfield.

REVIVAL HOUSES

Cinema Village, 22 E. 12th. (924-3363)
Through June 19: "The Marquise of O . . ." (1976; directed by Eric Rohmer; in German), with Edith Clever and Bruno Ganz; and "Nana" (1957; Christian-Jaque; in French), with Martine Carol and Charles Boyer.
June 20-21: "Gallipoli" (1981; Peter Weir), with Mel Gibson, Mark Lee, and Bill Kerr; and "The Year of Living Dangerously" (1983; Peter Weir), with Mel Gibson, Sigourney Weaver, and Linda Hunt.
June 22: "Body Double" (†); and "Dressed to Kill" (1980; Brian De Palma), with Michael Caine, Angie Dickinson, Nancy Allen, and Keith Gordon.
June 23-24: "Ugetsu" (1953; Kenji Mizoguchi; in Japanese), with Masayuki Mori and Machiko Kyo; and "Street of Shame" (1956; Kenji Mizoguchi; in Japanese), with Machiko Kyo.
June 25-26: "Salò, 120 Days of Sodom" (1977; Pier Paolo Pasolini; in Italian).
June 27-28: To be announced.

Regency, B'way at 67th. (724-3700)
June 18: "Treasure Island" (1972; John Hough), with Orson Welles, Walter Slezak, and Kim Burfield; and "The Black Rose" (1950; Henry Hathaway), with Tyrone Power and Orson Welles.
June 19-21: "The Stranger" (1946; Orson Welles), with Welles, Edward G. Robinson, and Loretta Young; and "Touch of Evil" (1958; Orson Welles), with Welles, Charlton Heston, and Janet Leigh.
June 22-25: "The Gay Divorcée" (†) and "Follow the Fleet" (†).
June 26-28: "Flying Down to Rio" (†) and "Carefree" (†).

Thalia, B'way at 95th. (222-3370)
June 18: "Himatsuri" (1985; Mitsuo Yanagimachi; in Japanese); and "Demon Pond" (1982; Masahiro Shinoda; in Japanese).
June 19: "Pee-wee's Big Adventure" (1985; Tim Burton), with Pee-wee Herman; and "Mon Oncle" (1958; Jacques Tati; in French), with Tati.
June 20: "Confidentially Yours" (1984; François Truffaut; in French), with Fanny Ardant and Jean-Louis Trintignant; and "The Woman Next Door" (1981; François Truffaut; in French), with Gérard Depardieu and Fanny Ardant.
June 21: "Close Encounters of the Third Kind" (1977; Steven Spielberg), with Richard Dreyfuss, François Truffaut, Melinda Dillon, Teri Garr, and Bob Balaban; and "Le Dernier Combat" (1984; Luc Besson; a French film, without dialogue).
June 22: "Women in Love" (1970; Ken Russell), with Alan Bates, Oliver Reed, and Glenda Jackson; and "Marat/Sade" (1967; Peter Brook), performed by the Royal Shakespeare Company.
June 23: A program of cartoons.
June 24: "The Mystery of Kaspar Hauser" ("Every Man for Himself and God Against All;" 1975; Werner Herzog; in German), with Bruno S.; and "Sensational Janine" (1980; Werner Herzog; in German).
June 25: "Cabaret" (1972; Bob Fosse), with Liza Minnelli, Michael York, and Joel Grey; "Christopher Isherwood: Over There on a Visit" (1980); and "Memories of Berlin" (1980).
June 26: "Cat on a Hot Tin Roof" (1958; Richard Brooks), with Elizabeth Taylor, Paul Newman, and Burl Ives; and "The Night of the Iguana" (†).
June 27: "A Day at the Races" (1937; Sam Wood) and "A Night at the Opera" (1935; Sam Wood), both films with the Marx Brothers.
June 28: "Blow-Up" (1966; Michelangelo Antonioni), with Vanessa Redgrave and David Hemmings; and "Zabriskie Point" (1970; Michelangelo Antonioni), with Mark Frechette, Daria Halprin, and Rod Taylor.

Thalia SoHo, 15 Vandam St. (675-0498)
June 18: "To Live and Die in L.A." (1985; William Friedkin), with William L. Petersen and Willem Dafoe; and "Cruising" (1980; William Friedkin), with Al Pacino.
June 19: A program of cartoons.
June 20-21: "Top of the Whale" (1981; Raoul Ruiz).
June 22: "The White Line" (1948; Luigi Zampa; in Italian, with an English narration), with Gina Lollobrigida; and "Era Notte a Roma" (1960; Roberto Rossellini; in English, Italian, Russian, and German), with Leo Genn, Giovanna Ralli, and Sergei Bondarchuk.
June 23: "The Emigrants" (†) and "The New Land" (†).
June 24: "Local Hero" (†); and "Atlantic City" (1981; Louis Malle), with Burt Lancaster, Susan Sarandon, and Kate Reid.
June 25: "The Atomic Café" (1982; Kevin Rafferty, Jayne Loader, and Pierce Rafferty); and "War and Peace" (1983).
June 26: A program of cartoons.
June 27-28: "Madame Rosa" (1978; Moshe Mizrahi; in French), with Simone Signoret; and "I Sent a Letter to My Love" (1981; Moshe Mizrahi; in French), with Simone Signoret and Jean Rochefort.

Theatre 80 St. Marks, 80 St. Marks Pl. (254-7400)
June 18: "The Lady from Shanghai" (1948; Orson Welles), with Rita Hayworth, Everett Sloane, and Welles; and "Gilda" (1946; Charles Vidor), with Rita Hayworth, Glenn Ford, and George Macready.
June 19: "The Homecoming" (1973; Peter Hall), with Cyril Cusack, Ian Holm, Michael Jayston, Vivien Merchant, Terence Rigby, and Paul Rogers; and "The Last Tycoon" (1976; Elia Kazan), with Robert De Niro, Tony Curtis, Robert Mitchum, Jeanne Moreau, Jack Nicholson, and Donald Pleasence.
June 20-21: "Wuthering Heights" (1939; William Wyler), with Merle Oberon and Laurence Olivier; and "Jane Eyre" (1944; Robert Stevenson), with Joan Fontaine and Orson Welles.
June 22: "It Happened One Night" (1934; Frank Capra), with Claudette Colbert, Clark Gable, Walter Connolly, Roscoe Karns, and Alan Hale; and "Twentieth Century" (†).
June 23: "Piaf—The Early Years" (1974; Guy Casaril; in French), with Brigitte Ariel; and "My Life to Live" (1962; Jean-Luc Godard; in French), with Anna Karina.
June 24: "Ball of Fire" (†); and "Lady of Burlesque" (1943; William Wellman), with Barbara Stanwyck, Michael O'Shea, J. Edward Bromberg, and Iris Adrian.
June 25: "Charlie Chan at the Race Track" (1936; H. Bruce Humberstone), with Warner Oland as Chan; and "Castle in the Desert" (1942; Harry Lachman), with Sidney Toler as Charlie Chan.
June 26: "His Girl Friday" (1940; Howard Hawks), with Rosalind Russell, Cary Grant, and Ralph Bellamy; and "The Outlaw" (†).
June 27-28: "Mr. Arkadin" (†); and "The Stranger" (1946; Orson Welles), with Welles, Edward G. Robinson, and Loretta Young.

FILM LIBRARIES, ETC.

Museum of Modern Art, Roy and Niuta Titus Theatres, 11 W. 53rd St. (708-9490; a limit-

ed number of tickets are available to those applying for them in person at the museum after 11 on the day of the showing.)

THEATRE 1: June 19 at 2:30 and 6: "White Threads of the Waterfall" (1933; directed by Kenji Mizoguchi; a Japanese silent film, with English intertitles). . . . ¶ June 20 at 2:30: "Fifteen from Rome" (1963; Dino Risi; in Italian, with English subtitles), with Ugo Tognazzi and Vittorio Gassman. . . . ¶ June 20 at 6: "Una Giornata Decisiva" (1965; Dino Risi; in Italian, with English subtitles), with Nino Manfredi; and "Guglielmo il Dentone" (1964; Filippo D'Amico; in Italian, with English subtitles), with Alberto Sordi; and "Il Professore" (1964; Marco Ferreri; in Italian, with English subtitles), with Ugo Tognazzi. . . . ¶ June 21 at 2: "The Visit" (1964; Antonio Pietrangeli; in Italian, with English subtitles), with Sandra Milo and François Périer. . . . ¶ June 21 at 5: "Queen Bee" (1963; Marco Ferreri; in Italian, with English subtitles), with Ugo Tognazzi and Marina Vlady. . . . ¶ June 22 at 2: "Vedo Nudo" (1969; Dino Risi; in Italian, with English subtitles), with Nino Manfredi and Sylva Koscina. . . . ¶ June 22 at 5: "Una Giornata Decisiva," "Guglielmo il Dentone," and "Il Professore." . . . ¶ June 23 at 2:30: "Queen Bee." . . . ¶ June 23 at 6: "Seduced and Abandoned" (1964; Pietro Germi; in Italian, with English subtitles), with Stefania Sandrelli. . . . ¶ June 24 at 2:30: "The Tiger's Back" (1961; Luigi Comencini; in Italian, with English subtitles), with Nino Manfredi. . . . ¶ June 24 at 6: "Vedo Nudo." . . . ¶ June 26 at 2:30 and 6: "1860" (1933; Alessandro Blasetti; in Italian, with English subtitles). . . . ¶ June 27 at 2:30: "I Knew Her Well" (1965; Antonio Pietrangeli; in Italian, with English subtitles), with Stefania Sandrelli, Nino Manfredi, and Ugo Tognazzi. . . . ¶ June 27 at 6: "The Visit." . . . ¶ June 28 at 2: "Everybody Go Home" (1960; Luigi Comencini; in Italian, with English subtitles), with Alberto Sordi. . . . ¶ June 28 at 5: "A Hard Life" (1961; Dino Risi; in Italian, with English subtitles), with Alberto Sordi and Léa Massari.

THEATRE 2: June 19 at 3 and 6:30: "Weirded Out and Blown Away" (1985; Sharon Greytak) and "In the Company of Harry" (1985; Robert Gantz), both documentaries. . . . ¶ June 20 at 3: "Portrait of Jennie" (1949; William Dieterle), with Jennifer Jones, Joseph Cotten, Ethel Barrymore, and Lillian Gish. . . . ¶ June 20 at 6:30 and June 21 at 2:30: "Rebecca" (1940; Alfred Hitchcock), with Laurence Olivier, Joan Fontaine, and Judith Anderson. . . . ¶ June 21 at 5:30: "Morocco" (1930; Josef von Sternberg), with Gary Cooper, Marlene Dietrich, and Adolphe Menjou. . . . ¶ June 22 at 2:30: "Portrait of Jennie." . . . ¶ June 22 at 5:30: "His Double Life" (1933; Arthur Hopkins), with Lillian Gish, Roland Young, and Montagu Love. . . . ¶ June 24 at 3: "Morocco." . . . ¶ June 24 at 6:30: "Pardon My Pups" (1934; Charles Lamont), with Shirley Temple; and "The Littlest Rebel" (1935; David Butler), with Shirley Temple, John Boles, Jack Holt, and Bill Robinson. . . . ¶ June 26 at 3 and 6:30: "Kid Gloves" (1984; Vince di Persio), a documentary. . . . ¶ June 27 at 3: "His Double Life." . . . ¶ June 27 at 6:30: "Regeneration" (1915; Raoul Walsh; a silent film), with Anna Q. Nilsson. . . . ¶ June 28 at 2:30: "Pardon My Pups" and "The Littlest Rebel." . . . ¶ June 28 at 5:30: "Irene" (1926; Alfred E. Green; a silent film), with Colleen Moore, Lloyd Hughes, and George K. Arthur.

JEWISH MUSEUM, Fifth Ave. at 92nd St. (860-1863)—"I Love You, Alice B. Toklas!" (1968; Hy Averback), with Peter Sellers, Joyce Van Patten, and Leigh Taylor-Young. (Tuesday, June 24, at 7.)

IN BRIEF

SEE ABOVE FOR THEATRE ADDRESSES AND TELEPHONE NUMBERS. IF A MOVIE HAS BEEN REVIEWED IN THESE PAGES DURING THE PAST TWO YEARS, THE DATE OF ITS REVIEW IS GIVEN.

ABSOLUTE BEGINNERS—Colin MacInnes's 1959 novel—an inventive celebration of youth and jazz and London, and a cry of disgust at the way teen-agers are already being commercialized and corrupted—has been turned into a stylized, widescreen musical by Julien Temple. The film has a glossy immediacy, and you can feel the flash and determination that went into it. What you don't feel is the tormented romanticism that made English adolescents in the seventies swear by the novel. David Bowie, James Fox, Ray Davies, Anita Morris, and Sade provide entertaining moments. (Reviewed in our issue of 6/2/86.) (Waverly; through June 26.)

BALL OF FIRE (1942)—The romantic collision of Sugarpuss O'Shea, a burlesque dancer (Barbara Stanwyck), and Bertram Potts, a fuddy-duddy professor (Gary Cooper), is played as if it were terribly bright, but it's rather shrill and tiresome. The cast includes Dana Andrews, Dan Duryea, Oscar Homolka, and S. Z. Sakall. Gene Krupa and his band are also on the screen. Howard Hawks directed. (Theatre 80 St. Marks; June 24.)

BODY DOUBLE (1984)—Brian De Palma, working with material that he has grown past: a murder mystery set in L.A., in the overlapping worlds of "serious" acting and performing in porno films. The central role—that of an actor who suffers from claustrophobia—is played by Craig Wasson, whose conscientious acting is a drag on the movie. Things pick up close to the midway point, when Melanie Griffith arrives and gives a tickling performance as Holly Body, a porno star with a punk-vamp haircut and a sprig of holly tattooed on her rump. But most of the movie lacks zest. The voyeuristic sequences, with Wasson peeping through a telescope, aren't particularly erotic; De Palma shows more sexual feeling for the swank buildings and real estate. With Deborah Shelton, Gregg Henry, and Guy Boyd. (11/12/84) (Cinema Village; June 22.)

BOUDU SAVED FROM DROWNING (1931)—Despite the problems of sound recording in 1931, Jean Renoir went out of the studio and shot this film on the streets and along the banks of the Seine, and so it is not only a lovely fable about a bourgeois attempt to reform an early hippie (Michel Simon is the shaggy-bearded tramp who spills wine on the table and wipes his shoes on the bedspread) but a photographic record of an earlier France. A beautifully rhythmed film that makes one nostalgic for the period when it was made. With Charles Grandval, Marcelle Hainia, Jean Gehret, Max Dalban, Jean Dasté, and Jacques Becker. In French. (Film Forum; June 25.)

BRAZIL—Terry Gilliam, of the Monty Python troupe, presents a retro-futurist fantasy—a melancholy, joke-ridden view of the horribleness of where we are now and the worse horribleness of where we're heading. The title refers to pop escapism of the past—what you can only dream about in the squalor and sporadic terrorist violence of an Anglo-American police state "somewhere in the twentieth century." Visually, it's an original, bravura piece of moviemaking. The central character (Jonathan Pryce) is a lowly clerk, a drone; in pursuit of the girl (Kim Greist) he has glimpsed in his dreams, he runs afoul of the state apparatus. The episodes lack dramatic definition, just as the gags do; they all run together and blur. Yet Gilliam's vision is an organic thing on the screen—and that's a considerable achievement. With Robert De Niro, Katherine Helmond, Michael Palin, Ian Holm, Ian Richardson, and Kathryn Pogson. The script is by Gilliam, Tom Stoppard, and Charles McKeown. (2/10/86) (8th St. Playhouse.)

CAREFREE (1938)—Fred Astaire plays a psychiatrist who was psychoanalyzed out of thinking he wanted to be a dancer; his friend, Ralph Bellamy, is in love with Ginger Rogers, who's in show business. Ralph, who can't get anywhere with Ginger, sends her to see Fred on a professional basis—to be cured of her indifference to him. Ginger begins to fall for Fred, but he hypnotizes her so that she'll love Ralph; then Fred discovers that he's in love with her himself. It sounds promising, in a chaotic sort of way, but this is one of the least scintillating of the Astaire-Rogers pictures; there's too much plot and too much leaden comedy between the dances. With Jack Carson, Franklin Pangborn, and Hattie McDaniel. Directed by Mark Sandrich. (Regency; June 26-28.)

CARMEN JONES (1954)—The setting of Bizet's "Carmen" has been changed from Mérimée's Spain to Jacksonville, Florida, and the libretto has been rewritten by Oscar Hammerstein II, who provides colloquial, rather basic lyrics, but the music retains much of its excitement in this flamboyant version with an all-black cast. Dorothy Dandridge is a marvellous-looking Carmen—fiery and petulant, with whiplash hips in a hot-pink skirt. (Her singing was dubbed by Marilyn Horne.) The man Carmen destroys is played by Harry Belafonte, who seems miscast and miserable (he was also dubbed). It's somewhat frustrating to watch performers who *can* sing but aren't allowed to; of the principals, only Pearl Bailey sings in her own voice. She's pure, comic energy up there in the center of the screen, and the director, Otto Preminger, seems to just stand back, enjoying her, like the rest of us. This movie is terribly uneven—best when it's gaudy and electric, worst in its more realistically staged melodramatic moments, especially toward the end. The cast includes Diahann Carroll, Olga James, Joe Adams, Nick Stewart, and Brock Peters. (Little Theatre, Public Theatre; starting June 27.)

THE COLOR PURPLE—The popular novel by Alice Walker is about the bonding of Southern black women in the first half of the century. It's written in a raw, cadenced dialect, and it has a joyous emotional swing to it. Steven Spielberg, who directed the movie version, appears to have taken the novel seriously—inspirational tone, pop-folk religiosity, triumph of the human spirit, and all—and been intimidated by it. This family saga, spanning more than thirty years, is the clumsiest, least confident feature he has done. He filters everything through movies and sees rural Georgia in 1909 the way a European director might. The picture is muffled—it seems to be taking place in a made-up, faraway kingdom. With Desreta Jackson as the young Celie and Whoopi Goldberg taking over the role, Danny Glover, Willard Pugh, Margaret Avery, and Oprah Winfrey. (12/30/85) (Criterion Theatres.)

DOWN AND OUT IN BEVERLY HILLS—Jokes you can't explain may be the best kind, and the director Paul Mazursky is a master of them. When he gets rolling here, you're not responding to single jokes—it's the whole gestalt of the movie that's funny. Nick Nolte plays the shaggy, smelly drifter who attempts suicide and is rescued by a self-made millionaire (Richard Dreyfuss). Taken into the millionaire's guest cabaña, the bum is decked out in silk lounging robes; he's soon lord of the sunshine manor. As Dreyfuss's creamy-skinned, pampered wife, Bette Midler is more seductive than in her other screen roles, and she has a warped charm. Her eyes are pixillated; she's ready for anything. As a record-producer neighbor, Little Richard uses the maniacal energy that went into his singing; he has a bursting presence—you look at him and laugh. Peppy and pleasurable, this is one of the most sheerly beautiful comedies ever shot. With Elizabeth Peña, Tracy Nelson, Evan Richards, Donald F. Muhich, and Mazursky himself as a curly-haired accountant. (2/10/86) (Embassy.)

DREAMCHILD—Coral Browne plays Lewis Carroll's Alice in 1932, just before her eightieth birthday, when she sails to New York to speak at the Lewis Carroll centenary celebration. Disoriented by the voyage and exhilarated by New York City, she experiences a second childhood; her mind wanders back to 1862, when the young Reverend Charles Dodgson (Ian Holm) had attempted to entertain her and her sisters by spinning his nonsense tale. It's only now that the elderly Alice grasps how deeply tormented he was and that he loved her. And with New York jogging her out of her confining Victorian primness, she sees how narrow her life has been. Written by Dennis Potter and directed by Gavin Millar, the picture is a curio, but it's very enjoyable, and in some scenes it achieves levels of feeling that movies rarely get near. Nothing in Coral Browne's other screen performances suggests the frailty and beauty she brings to her Alice, and Ian Holm's performance is

S	M	T	W	T	F	S
			18	19	20	21
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wonderful. With Amelia Shankley as Alice at ten, Jane Asher, Peter Gallagher, Nicola Cowper, and six Lewis Carroll–Tenniel creatures from Jim Henson's Creature Shop. (10/21/85) (Little Theatre, Public Theatre.)

8 Million Ways to Die—A macho fantasy about cops and robbers, coke and hookers. Jeff Bridges plays Scudder, a narcotics detective for the L.A. County Sheriff's Department, and the film, directed by Hal Ashby, has an overlush pictorial exoticism, as if being coked out comes with the territory. The film is permeated with druggy dissociation: plot points don't connect, as though they don't matter, the actors often sound as if they're making up their lines, and Ashby seems less interested in the thriller aspect of the material than in men in a semi-stupor challenging each other. With Rosanna Arquette, Alexandra Paul, Andy Garcia, and Randy Brooks. (5/19/86) (Criterion Theatres.)

Elena et les Hommes (1956)—Jean Renoir made this love-carnival film, set in France in the eighteen-eighties, in color and with an expensive international cast—Ingrid Bergman, Mel Ferrer, and Jean Marais. Also with Pierre Bertin, Elina Labourdette, Magali Noel, Jean Richard, and Juliette Greco. Cinematography by Claude Renoir. In French. (Little Theatre, Public Theatre; through June 19.)

The Emigrants (1971)—Jan Troell's broad-backed nature epic on the mid-nineteenth-century Swedish emigration to this country. A bursting, resonant work, it covers the grim farm life, under a hierarchy of masters, that drove a group to emigrate, the brutal sea voyage, and then the landing of the survivors and their trip by train, by Mississippi paddle-boat, and on foot until they staked out a claim in Minnesota. Troell's achievement is prodigious. (He is his own cinematographer and editor, and he collaborated on the writing.) The story is concluded in a second film, "The New Land" (see below). Both with Liv Ullmann and Max von Sydow. Adapted from the novels of Vilhelm Moberg. In Swedish. (Thalia SoHo; June 23.)

Flying Down to Rio (1933)—The romantic leads in this R.K.O. musical were Dolores Del Rio, Gene Raymond, and Raul Roulien, but it is famous for being the movie in which Ginger met Fred. (They were intended for comic relief.) The dances, including "The Carioca" and the airborne number that Ken Russell imitated in "The Boy Friend," were choreographed by Dave Gould; the songs, by Gus Kahn, Edward Eliscu, and Vincent Youmans, include "Orchids in the Moonlight" and "Music Makes Me." Thornton Freeland directed. (Regency; June 26-28.)

Follow the Fleet (1936)—Astaire and Rogers at their most buoyant. In this one, Astaire and Randolph Scott are (implausible) shipmates, and Rogers and Harriet Hilliard are (implausible) sisters. The material, derived from the 1922 play "Shore Leave," had grown a bit of moss. The characters aren't as rich and sophisticated as in the best-known Astaire-Rogers movies, but the corniness is lively. The numbers are mostly playful and fresh, and the Irving Berlin score includes "Let Yourself Go," "I'm Putting All My Eggs in One Basket," and the big finale, "Let's Face the Music and Dance." The cast includes Astrid Allwyn, Betty Grable, Lucille Ball, and Tony Martin. Directed by Mark Sandrich. (Regency; June 22-25.)

F/X—Robert Mandel directed this ingenious suspense film about a movie special-effects wizard (Bryan Brown) who lets himself be bamboozled by a couple of men from the Justice Department's Witness Relocation Program; they hire him to stage the fake assassination of a Mafia boss (Jerry Orbach), so that this gangster can give evidence against his associates and be relocated without fear of reprisals. Bryan Brown underplays niftily, and he's joined by a second hero—swaggering Brian Dennehy, as a rogue cop. He grabs the movie in his choppers and shakes it up. Despite the film's high body count, it's not the kind of thriller that leaves a viewer feeling debauched. With Diane Venora, Joe Grifasi, and Jossie deGuzman. (2/24/86) (Manhattan, and Quad Cinema. . . . ¶ Criterion Theatres; through June 19.)

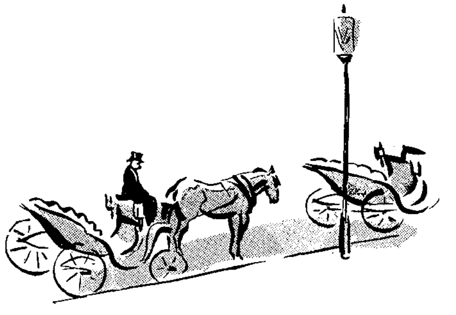
The Gay Divorcée (1934)—Fred Astaire and Ginger Rogers appeared together in "Flying Down to Rio" in 1933, but this was their first co-starring film. The plot is trivial French farce (about mistaken identities), but the dances are among the wittiest and the most lyrical expressions of American romanticism on the screen. It may be accurate to say that no one who saw them do "The Continental" or watched the great, tense, seductive dance they perform to Cole Porter's "Night and Day" has ever quite forgotten "The Gay Divorcée"—even if he thinks he has. With Alice Brady, Edward Everett Horton, and Betty Grable—a cuddly pixie in satin pajamas dancing "Let's K-nock K-neez." Directed by Mark Sandrich. (Regency; June 22-25.)

Hannah and Her Sisters—A minor, agreeably skillful movie by Woody Allen. It's likable, but you wish there were more to like. The principal characters are members of a show-business family, with the stable, dependable Hannah (Mia Farrow), a successful actress who manages a career and children with equal serenity, as the pivotal figure, and Barbara Hershey and Dianne Wiest as her sisters. Hannah's parents are played by Maureen O'Sullivan and the late Lloyd Nolan, her financial-consultant husband by Michael Caine, and her TV writer-producer ex-husband by Allen himself. The picture would be lifeless without him; the other roles are so thin that there's nobody else to draw us into the story, and all the vital vulgarity of Woody Allen's early movies is gone. With Max von Sydow, Julie Kavner, Carrie Fisher, Daniel Stern, Sam Waterston, Tony Roberts (uncredited), and Bobby Short as himself. (2/24/86) (Quad Cinema, and Criterion Theatres. . . . ¶ Beekman, and 57th St. Playhouse; through June 26. . . . ¶ D. W. Griffith; starting June 27.)

Jo Jo Dancer, Your Life Is Calling—Richard Pryor produced, directed, and is the star of this semi-autobiographical movie, which opens with Jo Jo the cokehead comedy star preparing to free-base and bursting into flame. Then, as he lies swathed in bandages in the burn ward, he thinks back over how he got there. But Pryor doesn't have the skills to tell his story in this form. As a standup entertainer, he sees the crazy side of his sorrows; he transforms pain and chaos into comedy. As a moviemaker, he's a novice presenting us with clumps of unformed experience. It isn't even raw; the juice has been drained away. With E'lon Cox, Carmen McRae, and Diahnne Abbott. (5/5/86) (R.K.O. Century National Twin; through June 26.)

Local Hero (1983)—A magical comedy by the Scottish writer-director Bill Forsyth. The story is about an American mergers-and-acquisitions executive—played by Peter Riegert—who is sent to Scotland to buy a fishing village and experiences something new to him, happiness. Forsyth is rarely explicit about anything—the picture is like one of those lovely Elizabethan songs that are full of tra-la-la-la-la-las. Burt Lancaster brings an imperial, romantic aura to the role of Riegert's boss—an oil tycoon whose penthouse includes a private planetarium. Also with Denis Lawson, Peter Capaldi, Jenny Seagrove, Fulton MacKay, Chris Rozyki, and Jennifer Black. (Thalia SoHo; June 24.)

Madame Bovary (1934)—Flaubert's Emma Bovary has usually been a role for screen beauties, but in this version, adapted and directed by Jean Renoir, Emma is played by Valentine Tessier as an anomalous creature, half swan, half goose. This large woman is not at all what one expects, yet she's surprisingly effective. The sunlight and the spaciousness emphasize Emma's loneliness; she's a middle-class woman with an ample figure, drifting along on romantic daydreams. Renoir's film ran three and a half hours; the backers cut it to two hours and had a commercial disaster anyway. What's left is like a Renoir nature essay on Flaubertian themes. It lacks Flaubert's intensity, but it has fine, unstressed images and scenes that stay with one. The director's brother, Pierre Renoir, plays the uncomprehending philistine Charles Bovary, Max Dearly is M. Homais, and Robert Le Vigan is Lheureux. In French. (Film Forum; June 25.)



Mr. Arkadin (1955)—Orson Welles directed and starred in this story of a fabulously wealthy dope smuggler who hires a man to trace his past. Ambitious and flamboyant but, whether because of technical problems or script problems or both, a fiasco. With Michael Redgrave, Akim Tamiroff, Mischa Auer, and Katina Paxinou. (Theatre 80 St. Marks; June 27-28.)

Mona Lisa—Directed by the Irish novelist turned moviemaker Neil Jordan, the whole movie has some of the potency of cheap music that's represented by the title song (in Nat King Cole's 1950 recording). The short, chunky Bob Hoskins is tremendous as a one-time petty crook, just emerged from prison, who's a decent, simple guy; given the job of chauffeuring a black call girl (Cathy Tyson) on her nightly rounds, he falls in love with her. Haughty, uncommunicative, and a head taller than he, she sets him to searching for a friend she's worried about—a blond fifteen-year-old heroin addict. As he makes his way through the strip joints and whores' hang-outs, he's sickened by the way the girls are mistreated, and he sees that his old boss (Michael Caine) is in the rotten thick of it. The movie is lurid in a beautiful way. Most of it was shot on location in London and Brighton, but they don't look merely realistic; Jordan shows a gift for making the emotional atmosphere visual, and vice versa. And the way he uses baroque touches and the clichés of old thrillers they become part of a fluid, enjoyable texture, a melodramatic impasto with an expressive power of its own—a romanticism that pulls you along. Making her film début in the title role, the lovely young Tyson (a niece of Cicely Tyson, she was raised in Liverpool and is, at twenty, a member of the Royal Shakespeare Company) is as mysteriously stirring to us as she is to the chauffeur. Caine gives a brilliantly scary performance; he's believably rotten, just as Hoskins' little mug is believably kind yet violent. With Robbie Coltrane as Hoskins' burly old pal, Clarke Peters as the sadistic black pimp, and Zoe Nathenson as Hoskins' daughter. Script by Jordan and David Leland; cinematography by Roger Pratt; score by Michael Kamen. (6/16/86) (Cinema I.)

My Beautiful Laundrette—A startlingly fresh movie about life in South London among the surly white street gangs and the Pakistani immigrants. In the foreground is a love affair between a dark-eyed, softly handsome, almost flowerlike Pakistani teen-ager, Omar (Gordon Warnecke), and a young blond street lout, Johnny (Daniel Day Lewis). They become partners when Omar persuades his slumlord uncle (Saeed Jaffrey) to let him have a ratty-looking failed laundrette, and the two boys, using stolen money, turn it into the laundrette of their flashy dreams. Directed by Stephen Frears, from a witty script by the young playwright Hanif Kureishi, the film catches you up in the racketeering and decay of modern big-city life; you feel that your blinders have been taken off. It's an enormous pleasure to see a movie that's really about something, and that doesn't lay on any syrupy coating to make the subject go down easily. (It's down before you notice it.) The cast includes Shirley Anne Field, Roshan Seth, Rita Wolf, and Souad Faress. (3/10/86) (Embassy 72nd St.)

The New Land (1972)—At the end of "The Emigrants" (see above), the viewer wanted to go on to find out if the survivors of the mid-nineteenth-century emigration from Sweden found what they had hoped for. In this second half, the master director Jan Troell

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shows what happened to them in Minnesota. Together, the two halves offer the pleasures of a rich, overflowing epic novel. Max von Sydow has never given a better performance. And Liv Ullmann, pale and fragile, intense and determined, has a delicacy that isn't evident in her performances for Ingmar Bergman. Troell also wrote the scripts, with the producer, Bengt Forslund, based on novels by Vilhelm Moberg. With Eddie Axberg and Monica Zetterlund. In Swedish. (Thalia SoHo; June 23.)

The Night of the Iguana (1964)—Richard Burton is the defrocked clergyman working as a tour guide; Ava Gardner is the strumpety widow who operates the run-down Mexican hotel where the action centers; Deborah Kerr is the saintly, middle-aged spinster from Nantucket; and Sue Lyon is the teen-ager out to seduce the minister. The director, John Huston, brings some coarse melodramatic vitality to the Tennessee Williams play, but whatever poetry it had seems to have leaked out. And without that the movie is terribly obvious, sentimental, and plain dumb. (Thalia; June 26.)

The Outlaw (1941)—As producer-director and bra designer, Howard Hughes managed to create the definitive burlesque of cowtown dramas, and without even trying. Jane Russell swings her bosom around and shows her love for frail, seedy Billy the Kid (Jack Buetel) by putting sand in his water flasks when he is setting out across the desert. To reciprocate, he ties her up with wet thongs and leaves her out in the sun. Walter Huston and Thomas Mitchell provide a little relief from the amorous games. Though completed in 1941, the film was tied up in heavily publicized censorship battles and wasn't shown until 1947. (Theatre 80 St. Marks; June 26.)

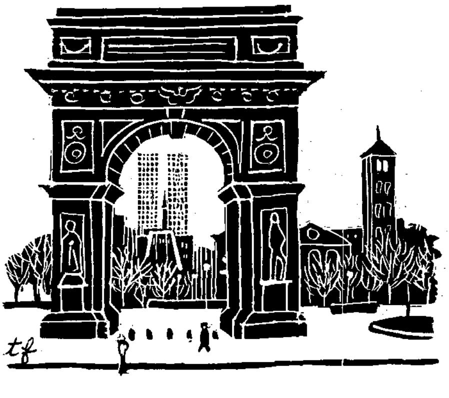
Ran—Set in the sixteenth century, Kurosawa's epic spectacle, a variation on the theme of "King Lear," is static, but it deepens, and it has its own ornery splendor. For the first forty minutes or so, the picture is all preparation, and it seems dead, but then the preparation begins to pay off, and by the end the fas*tidiousness and the monumental scale of* what Kurosawa has undertaken can flood you with admiration. With Mieko Harada, Tatsuya Nakadai, the Japanese transvestite pop star known as Peter, and Hisashi Ikawa. In Japanese. (Two hours and forty-one minutes.) (1/13/86) (Cinema Studio.)

A Room with a View—Adapted from the early novel by E. M. Forster, this is a whimsical social comedy about a muddled young English girl (Helena Bonham-Carter) who desires yet fears sexual love; she runs away from the man (Julian Sands) who stirs her emotions, and becomes engaged to a rich twit (Daniel Day Lewis). Bonham-Carter lacks the carriage and presence of a trained actress, and Sands is playing Forster's flimsy—almost abstract—dream of a natural, uninhibited lover, and is rather vague. But the movie is well paced, and it never loses its hold on a viewer's affections, because it's so thoroughly inhabited. With Denholm Elliott, Maggie Smith, Judi Dench, Simon Callow, and Rosemary Leach. The movie is more than a little precious, but it's a piece of charming foolishness. It was directed by James Ivory, from a script by Ruth Prawer Jhabvala that pares down the text skillfully and takes much of its lively, dizzy dialogue directly from Forster. (3/24/86) (Paris.)

Signal 7—Directed by Rob Nilsson and shot in three-quarter-inch videotape (using two cameras during six nights), which was then blown up to 35-mm., this semi-improvisational movie is about a group of San Francisco taxi-drivers from the start of the night shift until dawn, 6 P.M. to 6 A.M. Between calls, the men sit around playing cards and swapping stories at the De Soto Cab Company garage on Geary Street; the rest of the film was shot on location, too—on the streets and inside the cabs as they move through the city. The title refers to an alert that a driver isn't responding to the dispatcher and may be in distress; metaphorically, it refers to the *distresses that beset us all.* Essentially, the movie is all subtext: it's about the anguish of men who know they're failures—in particular, the genial sad sack Marty (Dan Leegant) and the ravaged hammy-handsome Speed (Bill Ackridge); longtime friends, they have both done some acting, and in the course of the night they audition for roles in a local theatre production of Odets' "Waiting for Lefty" (which is about a cabdrivers' strike). The auditions are straight-faced satire, and they're the movie's high spot, with the theatre director (Bob Elross) a solemn high-muck-a-muck and the producers and others involved huddled in chairs around him and leaning in to confer in whispers. The actors auditioning are like miscreants at the bar of justice. Conceived in the manner of Cassavetes (to whom the film is dedicated), it often gives us parts of lined faces filling the screen. They're heavily lined, because videotape doesn't have the sensitivity to light that film has, and when Nilsson shoots outdoors at night, using available light, the images simply don't have the depth of field that we're used to. The faces look flattened out and they're grainy and greenish. Used this way, video itself adds to the anguish. But the film has its fascination. The small talk at the garage has a comedy rhythm a director isn't likely to get in a scripted movie, and the drawn-out sequence in which the probably impotent Speed tries to put the make on a young Israeli passenger (Hagit Farber) is compelling in its awkwardness and embarrassment. This video-to-film method cuts down costs in a major way, though as with early Cassavetes, the time gained in shooting is lost in editing; Nilsson had thirty-three hours of tapes, and it took eight months to edit them down to ninety-two minutes. Coppola lent the film his name; the credits read "Francis Ford Coppola Presents." (Waverly; through June 19.)

Sweet Liberty—Alan Alda is the writer, the di*rector, and the star of this satirical comedy* about moviemaking. He plays a history professor whose Pulitzer Prize-winning book on the American Revolution is to be filmed during the summer in the area where the events he wrote about took place. Alda's conception of this professor—as smug and insecure but basically a representative of solid, enduring values—casts a pall over the proceedings; still, if you don't expect too much there are enough enjoyable scenes to put you in a good mood. The fun comes from the Hollywood contingent of show folk who invade the community: Michael Caine as the skirt-chaser star, Michelle Pfeiffer as the leading lady, Bob Hoskins as the vulgarian screenwriter, and Saul Rubinek as the wily director. Also with Lois Chiles, Lise Hilboldt, and Lillian Gish. (6/2/86) (R.K.O. Art Greenwich Twin. . . . ¶ Criterion Theatres; starting June 20.)

Top Gun—It features MTV motivation; I pose, therefore I am. The strapping Kelly McGillis is an astrophysicist employed to teach the élite fighter pilots in training at San Diego's Miramar Naval Air Station; she sidles into rooms and slouches, so she won't overpower her co-star, the relatively diminutive Tom Cruise, who is supposed to be the most daring of her students. When McGillis is offscreen, the movie is a shiny homoerotic commercial; the pilots strut around the locker room, towels hanging precariously from their waists. *It's as if masculinity had been redefined as* how a young man looks with his clothes half off, and as if narcissism is what being a warrior is all about. In between the bare-chested maneuvers, there's footage of ugly snub-nosed jets taking off, whooshing around in the sky, and landing while the soundtrack calls up Armageddon and the Second Coming—though what we're seeing is training exercises. What is the movie selling? It's just selling, because that's what the producers, Don Simpson and Jerry Bruckheimer, and the director, Tony (Make It Glow) Scott, know how to do. Selling is what they think moviemaking is about. The result is a new "art" form: the self-referential commercial. With Val Kilmer, Anthony Edwards, and Tom Skerritt. The script is credited to Jim Cash and Jack Epps, Jr. (6/16/86) (Loews 34th Street Showplace, Loews Orpheum, Loews 84th Street Sixplex, and Loews Astor Plaza.)



The Trip to Bountiful—Geraldine Page gives a controlled, all-out performance as Carrie Watts, an old-age pensioner who wears seat-sprung housedresses and lives in a tiny apartment in Houston with her sad, defeated son and his shrill wife, who keeps picking on her. The movie—a weeper—is about Carrie's longing to escape and return to Bountiful, the Gulf Coast town where she grew up; she runs away, gets on a bus headed in the right direction, and lives out her dream. Directed by Peter Masterson, from Horton Foote's adaptation of his 1953 teleplay, it's a "spiritual" picture—a tribute to the decency of the common people who endure by doing the best they can. The camera is meant to be the mirror of Carrie's soul, but we look in that mirror for so long that finally all we see is Geraldine Page acting. The movie is intended to be a hymn, but all Foote and Masterson can do is give some of the characters a limp, anesthetized grace. With John Heard, Carlin Glynn, Rebecca DeMornay, and Richard Bradford. (1/13/86) (Lincoln Plaza.)

Trouble in Mind—*The gifted writer-director* Alan Rudolph has got the film-noir bug, and the picture is a pile of poetic mush set in some doom-laden, vaguely universal city of the past and/or the future. (It was shot mostly in Seattle.) As Hawk, Kris Kristofferson is supposed to be the gallant Bogart hero living in an evil semi-fascist era. Rudolph probably aimed to create a glamorous, funky trance-world, but his control fails him; the scenes often start with a shimmer that makes you feel hopeful, but they become stagnant, and you have no way of knowing how to interpret the flossy hipster-philosopher babble that the characters speak. With Joe Morton, Keith Carradine, Geneviève Bujold, and Lori Singer. (4/7/86) (Bleecker St. Cinema; starting June 20.)

Twentieth Century (1934)—A first-rate hard-boiled farce about theatrical personalities. John Barrymore was a great farceur, and his performance as the egomaniac producer Oscar Jaffe is a roaring caricature of theatrical drive and temperament. It was Carole Lombard's performance as Jaffe's protégée that established her as a comedienne. Most of the action takes place on the crack train of the title—the Twentieth Century, going from Chicago to New York—which represented the latest thing in speed and luxury. Howard Hawks directed in a fast, entertaining style, punching up the lines. (Theatre 80 St. Marks; June 22.)

Vagabond—Agnês Varda wrote and directed this scrupulously hardheaded film about an eighteen-year-old girl on the road, a deliberately homeless drifter who lives on handouts, thefts, a little prostitution, and the occasional odd job. At the opening, her frozen body is discovered in a ditch in the countryside. Varda presents the movie as a documentary investigating how this happened. The characters are the sullen, suspicious, vacant-eyed young girl (played immaculately by Sandrine Bonnaire) and the witnesses to her last weeks. The purity and boldness of Varda's approach may call Robert Bresson to mind, but we see the closed-off girl strictly from the outside, and this factual, objective view isn't enough. With Macha Méril. In French. (5/19/86) (Lincoln Plaza.)

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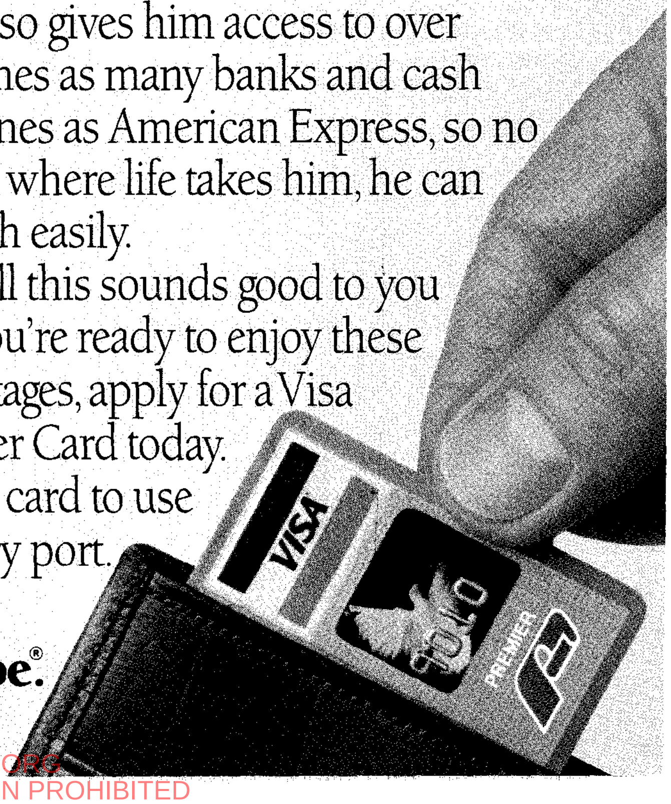

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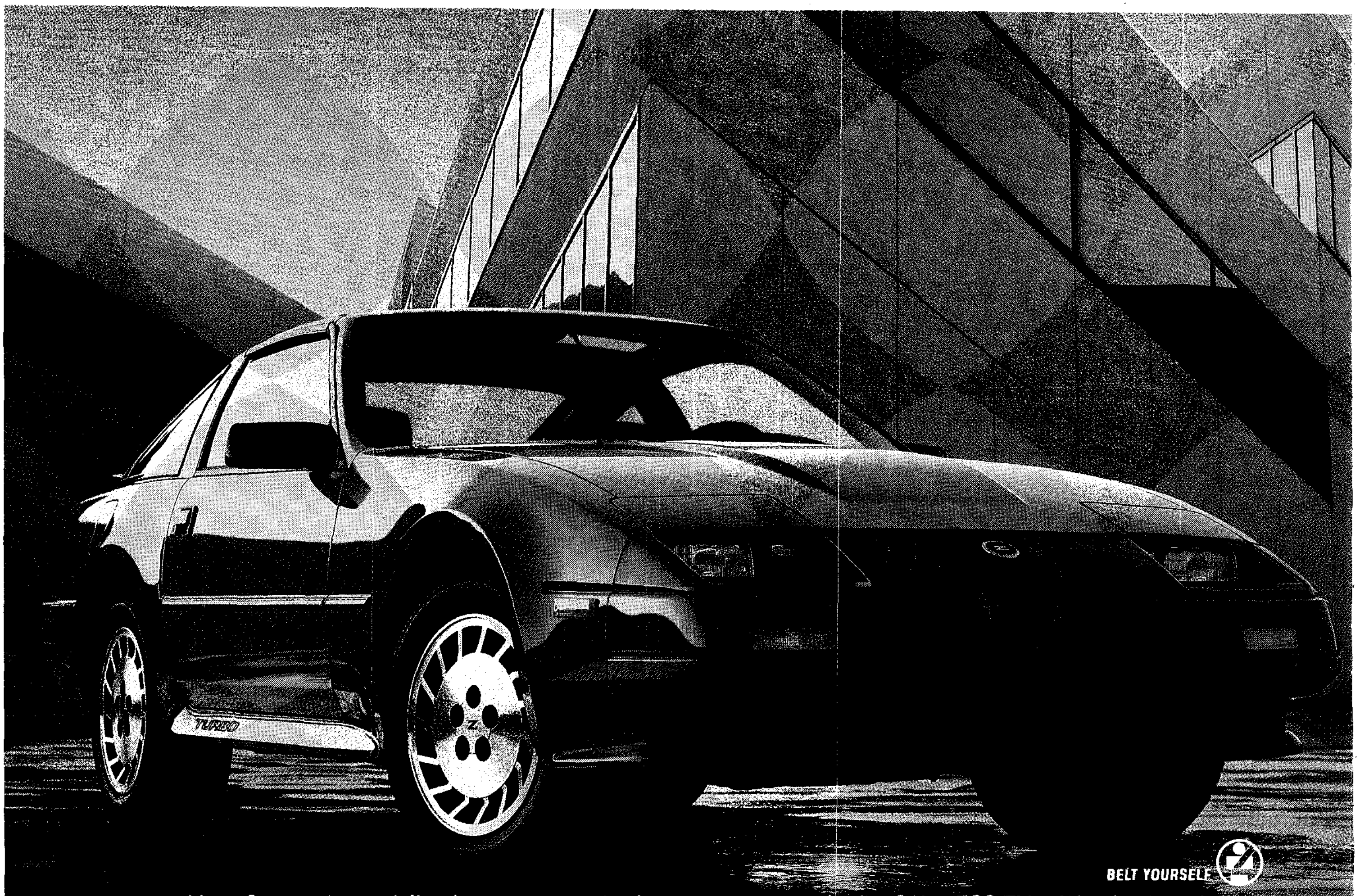

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THE
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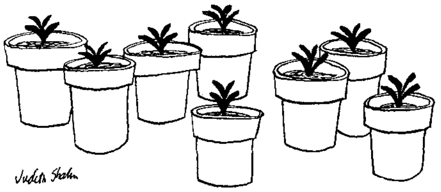
THE TALK OF THE TOWN

Notes and Comment

SHORTLY after President Reagan announced that the United States would no longer consider itself bound by the provisions of the SALT II treaty, which his Administration had abided by for five years, even though the Senate had never ratified it, Secretary of Defense Weinberger cast doubt on the future of the ABM treaty—which has prevented the deployment of any new anti-nuclear defensive missiles since 1972—by suggesting that its extension might interfere with the Administration's Strategic Defense Initiative (otherwise known as Star Wars). If both treaties are permitted to lapse, then the two main pillars of nuclear-arms control to be erected so far will have been felled. Slender pillars they have been—slender supports on which to balance the survival of the whole world. Around them, the weapons have piled higher and higher, and the voices of governments grown angrier and angrier. Still, as long as the pillars stand one can manage to hope that they will prove one day to be the first elements of a truly adequate world-bearing structure. Now that the survival of the treaties is in doubt, and no new ones look imminent, many important questions arise. If the treaties are discarded, will the Russians be able to heap up new weapons faster or will we be able to heap them up faster? Who will spend whom into bankruptcy first? Will the iron-willed totalitarians push the feckless, spoiled democrats over a cliff of government debt? Or will the clever, economically unfettered democrats bleed the rigid, inertial totalitarians dry? Is either of these results desirable? Which side, if either, will the unconstrained growth of defensive weapons favor? Will the new "third generation" of nuclear weapons now being developed at Livermore Laboratory make the nuclear balance more stable or undermine what little stability it now has? Will the United States deploy more of the giant, earthbound MX missiles, with their ten huge warheads, or will it deploy the tiny, mobile Midgetman missiles, with their one little warhead? And so on. These questions and countless questions like them deserve, and will no doubt receive, much attention. For our part, though, we found our thoughts turning to some lines of poetry that we happened to have read recently—by W. H. Auden and by Czeslaw Milosz. The lines from Auden that caught our attention were the famous ones from his poem "September 1, 1939" which read:

> I and the public know
> What all schoolchildren learn,
> Those to whom evil is done
> Do evil in return.

Those lines express a timeless truth, and it's a truth with relevance to our plight, yet it was their literal *in*applicability to our plight which struck us. In the nuclear age, the words "in return," loaded with pessimism though they are, actually have too hopeful a ring. They suggest the dreadful automaticity of revenge—the inexorable pendulum motion by which vengeance taken to right one wrong is avenged with another wrong, which must be avenged in turn, ad infinitum. And this pendulum is a double-bladed axe; it rips back and forth through cities, through countries, through human bodies, making its evil the earth's only perpetual-motion machine. But today any notion of perpetuity in the human scene—even when it is horror that is being perpetuated—is unduly sanguine, for it assumes the continued existence of that human scene, and this is just the thing that nuclear weapons make uncertain. We all know that if the pendulum swings one more time it may well smash its case, and burst the world. In part for this reason, no doubt, for the last forty years or so the pendulum has been held stationary; that is, it has on the global level, where nuclear weapons preside—not, of course, on the local level, where nuclear weapons do not yet exert their paralyzing influence on war. The momentum of human evil which drove the pendulum has not been stopped, however; it has only been given a new outlet, and that outlet is the nuclear-arms race, which now seems almost as hard to stop as the pendulum used to be. Instead of using our weapons to fight wars, all of us who have them store them away, pouring our destructive power not into history, as before, but into an underground reservoir, or warehouse, in which the destructive power grows and grows, until by now it is enough to possibly end history. In that warehouse, our unfought wars are piling up. Michael H. Mobbs, the assistant director for strategic programs of the Arms Control and Disarmament Agency, recently told the House Foreign Affairs Committee that without the SALT II limits the Soviets might add eleven thousand new warheads to their intercontinental nuclear arsenal by 1994. That would amount to the equivalent in explosive power of more than a Second World War every week. Our motto seems to be "Peace Now but Annihilation Tomorrow." Dissatisfied, it appears, with the immemorial tight intertwining of good and evil in human affairs, we contrived, like some fatigued second-rate metaphysician, to simplify things, so



that we would face one great choice: light or dark, life or death. If that was our idea, we failed, of course—or, at any rate, succeeded in only half of the enterprise, for while the darkness on one side is indeed total the "light" on the other remains the usual play of light, dark, and shadow. It is this that we must love, this that we must choose.

In clarifying that choice, the Milosz poems, which are in his new book, "Unattainable Earth," can be helpful. Nowhere in this book is there any mention of nuclear weapons or of the nuclear predicament, but one can avail oneself of the reader's privilege of letting lines that are end points for certain trains of thought of the author's be starting points for trains of thought of one's own. A qualification seems called for here, however: in the world as Milosz conceives it no train of thought ever really reaches a satisfactory end point, for none ever fully grasps the experience or truth it is pursuing. Hence his line "Great was that chase with the hounds for the unattainable meaning of the world." Hence, too, the title "Unattainable Earth." For him, we live amid unfinished and unfinishable business. He is, he tells us in one of the poems, in his seventies; and in these poems the world is seen with a backward-looking glance, and the tone is elegiac. Yet he finds, to his surprise, that appetites, passions, and dreams that were born in his youth have remained strong. In the first poem, "The Garden of Earthly Delights," he is being conducted to the Prado by a group of young women to see Hieronymus Bosch's painting of that title. He writes:

> The twentieth century is drawing to its close.
> I will be immured in it like a fly in amber.
> I was old but my nostrils craved new scents.
> And through my five senses I received a share in the earth
> Of those who led me, our sisters and lovers.

E. B. WHITE once wrote a beautiful essay called "The Years of Wonder," about certain youthful years. For Milosz—and for White, too, as it turned out—all the years are years of wonder. In the nostrils of the "old" poet, the craving is still strong; but he also discovers a difference—a detachment in the craving, or, perhaps, a breadth of attachment that wasn't there in earlier years, as if desire, overshooting its immediate objects, had embraced the whole earth. In a prose entry, Milosz writes:

> Love of life, passion for life. Perhaps one feels it also in one's youth, but differently and with different words. One must liberate oneself, at least to some extent, from complexities, from taking one's fate too much to heart, before being able to rejoice simply because one is alive and among the living.

Alive and among the living—the self in the world: both are the causes of the rejoicing, and both, today, are in jeopardy. The note of farewell in the poem cannot help reminding us of the world's mortality as well as of each individual's. If the world is destroyed, there will, of course, be no one to elegize it, so that must be done now if it is to be done at all. If the world is lost, it is we who are alive now who are its losers. Resorting to the reader's privilege again, one can give a second meaning to Milosz's title "Unattainable Earth," for today we have lost our grip on this possession in a literal sense. It has slipped from our hands, and we don't yet know what to do to get it back. In his seventies, the poet, still in love with the earthly garden, finds that his attachment to it extends far beyond anything that he will ever possess himself, reaching even beyond his own death. That's why his prayer, which should also be ours, is:

> Do not die out, fire. Enter my dreams, love.
> Be young forever, seasons of the earth.

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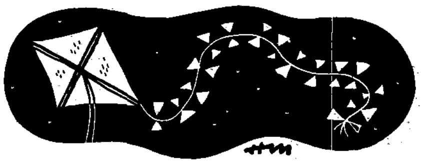
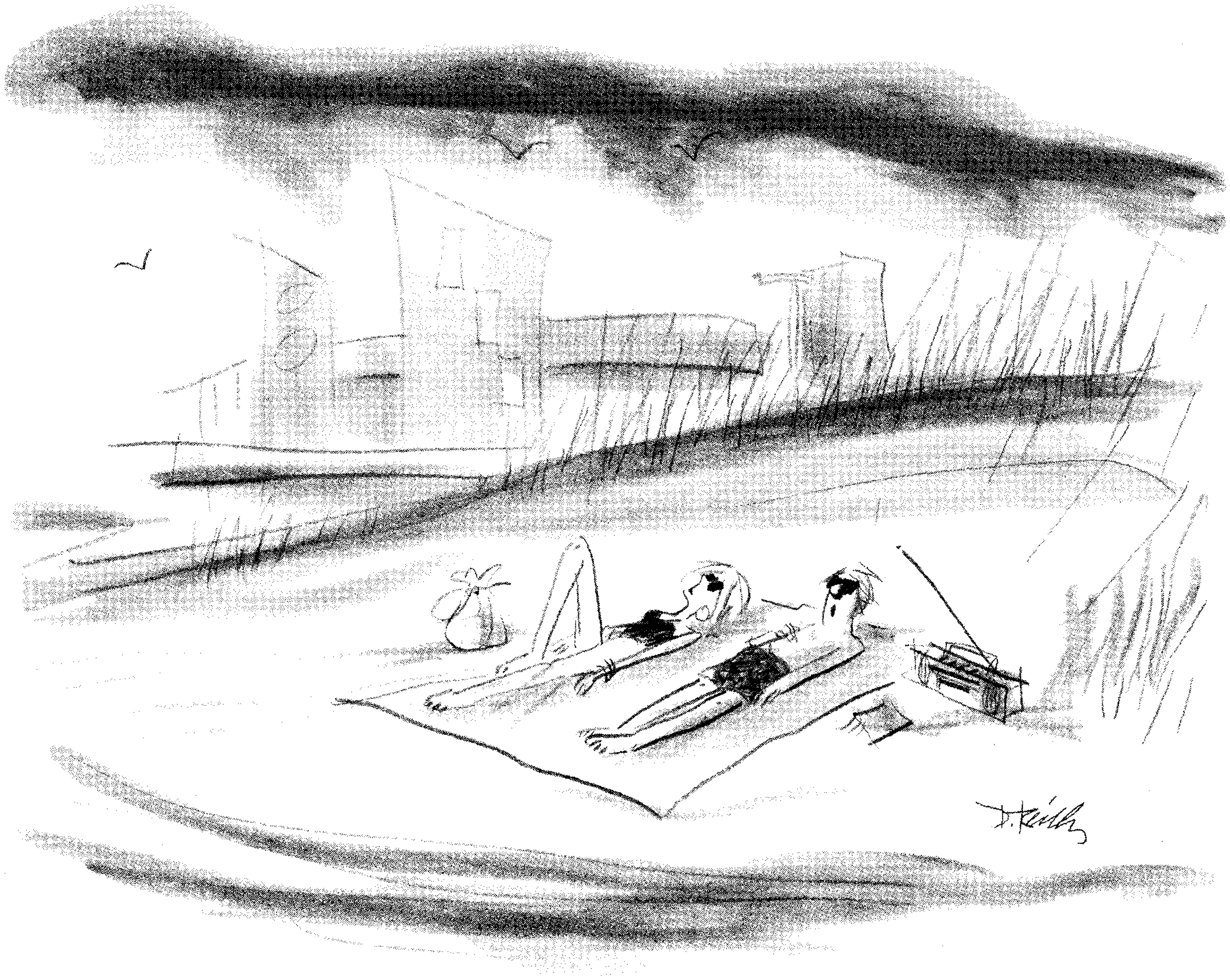
Senior Prom

A SUBURBAN friend writes:

Last week was our younger son's high-school senior prom, and we browbeat him into bringing his date along to the house before the festivities began. He is not, to put it diplomatically, greatly attracted to social life or its peculiar requirements, such as answering an invitation more than five minutes in advance of the event, and we had begun to worry that he would miss what I remembered as one of life's milestones. No fear: like every teen-ager, ours has a perfect instinct for keeping parents off balance, and this time he did it by appearing dead on time, elegantly turned out in dinner jacket and wing-collared shirt. He had even managed to remember a corsage for his date, and the two of them posed graciously for a few Polaroid snaps before they swept off: two handsome young people who seemed more at ease with each other than dates are supposed to be—or, at least, than they were back in my era.



The prom evening happened to coincide with my wife's birthday, so she and I, too, went out on the town, and, carried along on a heady combination of romance, nostalgia, and pear william, decided after dinner to find a place where we could dance. Easier said than done these days, if one (or, as in our case, two) finds the small-arms confrontation that passes for dance music less than evocative. After a half hour's search, we ended up in the lobby of one of those featureless monoliths—hotel, motel, who knows what?—that have sprouted in even the most distant suburbs. From somewhere came sounds that were definitely dance music, and we followed our ears to where several banquet tables had been set up as a barricade across the lobby—a barricade manned not only by hotel personnel but also by a couple of uniformed policemen. On the far side surged a mass of young men and women dressed to the teeth; it was clearly an event like the one our son was attending. Bemused, we stood and watched, and were carried back in time. Now, as then, the ladies looked more at ease in formal clothes than the men did, and the situation was exacerbated by some of the new trends in male evening dress, such as white tuxedos with black lapels—a rig unsuited to anyone outside a Busby Berkeley film. Some of the boys had acquired their dinner jackets either in the dark or while under powerful illusions about the width of their shoulders, but the majority had achieved the protective, penguinlike sameness I remembered so well. Few very young men have the panache necessary for individual displays of sartorial heroism, but we were delighted by one triumphant example: white tie and tails, a well-developed beard, lots of curly hair surmounted by a traditional top hat, and, heaven help us, a brass-headed cane, which I rather hoped concealed a sword. We were savoring the sight when, to our horror, our son's date materialized from the crowd, heading in our direction, and we realized we were spying on not



"I hate to tell you this, but Dad gave my condo down payment to the Contras."

• •

just a prom but *the* prom. While I have often told each of my boys that the best a kid can expect of his parents is that they won't fall down and foam at the mouth in front of his friends, to be caught in this situation seemed perilously close to that nadir. My wife and I retreated behind a convenient pillar, but we could drag ourselves no farther away, torn between the powerful desire to see our son among his peers and the even more powerful fear of being spotted. At last, as we seemed to be attracting a certain amount of attention from the hotel staff, we slipped off into the night. The next day, when our son appeared in his normal attire—a style that might be called combat derelict—we confessed all. He took it coolly, to our relief. But he took the whole night in much the same way, and I was, frankly, a little disappointed, until it occurred to me that maybe, just now, his prom was more our milestone than his. With the passage of time, the event may take on a different perspective for him, and we tucked those Polaroids away, in case he might need them.

Right on Target

BY 6:45 A.M. two Fridays ago, Marvin Stuart Traub, the sixty-one-year-old chairman and C.E.O. of Bloomingdale's, had got through three-quarters of his twice-a-week hour of exercises. His wife, Lee Traub (the chairman of the Martha Graham Dance Company), was still asleep. He was standing in the study—small, book-lined, and rather stuffy—of his apartment, on the thirty-ninth floor of a building a few blocks east of his store. With his fists grasping two-pound red Heavyhands, Mr. Traub dutifully started bending down and bringing first one hand and then the other to the opposite ankle, to the rhythm, more or less, coming from a portable cassette player nearby, of Madonna singing "Lucky Star." Mr. Traub—six feet tall, a hundred and seventy-eight pounds at the moment—was smoothly tanned; his hair, which is silver and worn longish, was somewhat damply mussed but still neatly parted; and he was wearing wristwatch, gold wedding band, tortoise-shell-rimmed glasses (with misty lenses, echoing a fog-enshrouded view from a nearby window of scores of high rises and the East River beyond), white tennis shorts, white Lacoste shirt, white sneakers, and light-blue socks. Mr. Traub's attention was focussed with unwavering obedience on his trainer, from Homebodies—Kate Gyllenhaal, an attractive young woman with shoulder-length blond hair and with a dancer's reproachfully exemplary body, in red leotard with white belt over white tights, who was doing the same exercises with an extraordinary lack of effort. Mr. Traub was panting noticeably but without complaint.

"Hands to ankles, press down, inhale, exhale, stomach strong, press it in, pull the abdominals in, keep the abdominals strong," Miss Gyllenhaal was intoning, in time with Madonna.

They paused. Mr. Traub removed his glasses, towelled them off, and towelled his face, and then Miss Gyllenhaal took his pulse. "Right on target," she reported. "You started at your usual fifty, very nice, very calm, and now you're the usual one-twenty. Very, very good."

"Terrific," Mr. Traub said, looking pleased.

"You're very strong," Miss Gyllenhaal said. "And you just started four months ago. Incredible."

They had warmed up with parallel alignments of shoulders and hips and with deep-breathing exercises; had warmed up the neck, knees, and pelvis; had warmed up the spine by touching hands to floor, tucking the head in, pulling the pelvis under, and rolling the spine up to standing position. Now, to the music of Jelly Roll Morton, then Bette Midler, and then Larry Elgart's Manhattan Swing Orchestra, they did pushups, on their knees, with legs crossed at the ankles, scooping in the pelvis, to strengthen the lower back.

"Let the spine release," Miss Gyllenhaal said, in the final part of the session, which she called "imagery work." "Feel the breath in your whole body, feel the calm inside yourself. Let everything go."

"O.K.," Mr. Traub said in a that's-it way, looking purposeful, in a hurry, but as though he might be feeling the calm inside himself. "I'm going to shower. I'm so glad you're teaching most of my top people at Bloomingdale's. They're all with me on our Bloomingdale's 'Eat Healthy' diet."

"Baked potato with yogurt for breakfast?" Miss Gyllenhaal inquired, packing up her tapes, player, and Heavyhands.

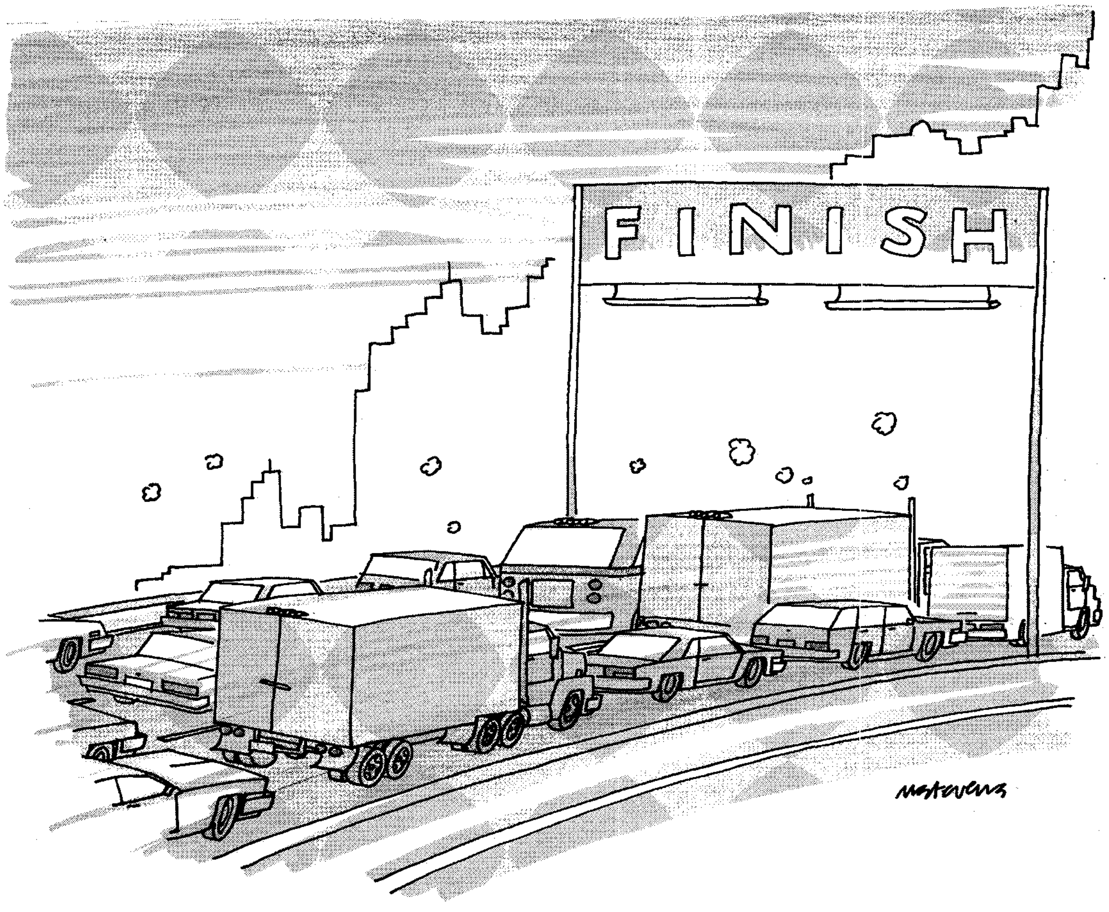
"Well, but not this morning," Mr. Traub said hesitantly. "I've got a seven-forty breakfast in the office."

At seven-twenty, wearing a navy-blue tropical wool suit with chalk stripes and with a Commendatore della Repubblica button in its lapel, a blue-and-white striped shirt, a paisley tie, and gold-and-lapis cufflinks (everything except the button purchased at Bloomingdale's: "If I don't shop here, who would?"), with his hair brushed and his tortoiseshell glasses firmly in place, and carrying one designer's briefcase and another's umbrella (both purchased you-know-where), Mr. Traub walked swiftly out of his apartment building and proceeded west. After crossing Third Avenue, he carefully examined Bloomingdale's windows featuring "Images of the Modern Father" in displays of Norman Rockwell–cover blowups together with fatherly-looking caps, shirts, and whatnot. He sped around The Men's Store corner and past a lineup of delivery trucks, went into the employee entrance, on East Sixtieth Street, and—quietly and politely greeting guards and maintenance workers—made his way up to the executive offices, adjoining Towels on the seventh floor. On the wall beside the entrance to his office was a framed page of the New York *Press* for Sunday, October 9, 1892, on which was a full-page ad announcing that Bloomingdale's new building was "to be erected in 1893." (The same building is still there.) The ad incorporated what may have been the store's first tie-in:

> New York and Bloomingdale's
> 1492-1892
> This Columbia centennial finds the city and the store on the top crest of success. . . .

On one side of the office, a table was laid for breakfast—a glass of orange juice, a croissant, and three large strawberries ready at each person's place. On the other side of the office was a computer. Mr. Traub went directly to it and punched out the "Daily Flash Report" for the Manhattan Bloomingdale's and its fifteen branch stores throughout the country. He read that New York sales were ten per cent ahead of those one year ago—$1,351,640 as against $1,230,354.

Mr. Traub gave the machine a fast look of approval. It was just moments past seven-forty. Mr. Traub's guests arrived, with apologies for lateness and a few bitter remarks about traffic: Lee Abraham and Phyllis Albertson, chairman of the board and senior vice-president of international operations, respectively,



"Try again, boys. This has visibility and credibility, but it still lacks deniability."

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of the Associated Merchandising Corporation, a worldwide consulting organization with which Bloomingdale's is affiliated. They sat down immediately. Everybody set to work on the croissants and strawberries.

"I should be eating a baked potato," Mr. Traub said. "It's on the Laura Stein 'Eat Healthy' diet, which Bloomingdale's endorses."

"That reminds me—" Mr. Abraham said, hunting for something in his coat pocket.

"We do incredible business with anything that says 'Bloomingdale's,' " Mr. Traub said. "From bears to sweatshirts to diets."

Mr. Abraham found what he was looking for. "On the twenty-second, Marvin," he said, "I'd like to invite you and your wife to an informal swim party at my place in Connecticut for a Texas barbecue for our overseas managers—twenty-two managers. From all over."

"It will mean a lot if you're there," Mrs. Albertson said.

Mr. Traub dutifully took a dark-green-vinyl-covered calendar (an annual token from Federated Department Stores, the corporate owner of Bloomingdale's and others) from his coat pocket and made a note of the event. "A barbecue?" he said. "Lunch?"

"It's done by this former hairdresser from England," Mr. Abraham said. "He does these barbecues. Sort of brunch. With three kinds of sauces. Charcoal-broiled rattlesnake. Everything."

"I'm supposed to eat carrot-and-turnip soup," Mr. Traub said, looking as though he were making an effort to maintain the calm inside himself.

Mr. Abraham seemed to be thinking only of the barbecue. "He does everything himself," he went on. "With—What's that kind of wood?"

"Mesquite," Mr. Traub said firmly.

"Mesquite," Mr. Abraham said. "One more example of your phenomenal memory."

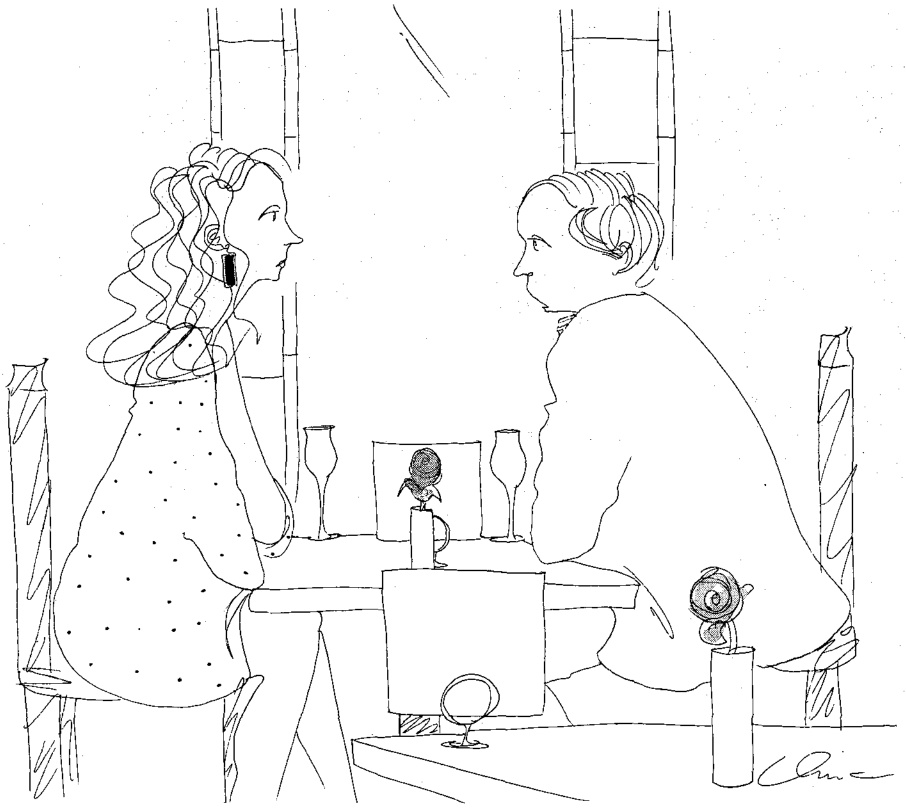
They then got down to the main item on the agenda, which was a trip Mr. Traub was planning to make with his wife and a couple of Bloomingdale's colleagues early in July to Korea, Hong Kong, Bangkok, and Singapore, in connection with a promotion theme for next spring focussed on the South China Sea countries and merchandise imported therefrom. Mr. Abraham and Mrs. Albertson had made trips to the area, and it was their mission to give Mr. Traub tips on where to go, whom to meet, and what to see. They discussed "potentials for the future" in Korea, where economic leaders were "interested in polishing their image" and were "very responsive." They spoke of the "spadework" for and "deep potential" of men's accessories in Bangkok.

Mr. Traub told them that two of his senior vice-presidents—Julian Tomchin, fashion director of Home Furnishings and Cosmetics, and Norman Axelrod, general-merchandise manager—had just returned from the Far East with samples of merchandise, and were going to show them to him later that morning. "They're marvellously enthusiastic about better goods," Mr. Traub said.

"Get used to eating kimchi," Mr. Abraham said. "It's fermented cabbage permeated with garlic. Spicy. Strong."

"O.K.," Mr. Traub said amenably but with a solid implication that he would eat kimchi if *he* wanted to eat kimchi.

Precisely at eight-thirty, Mr. Traub strode from his office to Bloomingdale's boardroom, at the opposite end of the store. On the boardroom walls were large portraits of Lyman Bloomingdale, his son Samuel, and other past presidents of the company. For the next hour and a half, Mr. Traub, his glasses now pushed up onto his forehead, listened to a review, with sixteen of his construction designers, store heads, and general-merchandise managers, of "construction requests": new floors at Fifty-ninth Street, major renovations at another store, refrigeration repairs, and the need for new cash registers, floor fixtures, and lighting,



"I love you, and you love romance."

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the refurbishing of elevators, and new cases for dolls in Toys. Then he sped back to his office, where the Messrs. Tomchin and Axelrod awaited him. They had made thirteen flights in fourteen days, visiting four countries. They were prepared with thick notebooks containing color photographs, taken by them, and informative captions, and they had brought back many samples. In one form or the other, they showed Mr. Traub life-size reproductions of fruit in wood; teak chairs shaped like elephants; gold-leaf-covered statuary; cotton sarongs that could be translated into placemats, pillows, or Lycra swimwear; and enameled-wood earrings that could be converted into Christmas ornaments. A Bloomingdale's sportswear buyer was now in Bangkok, they told him, and the Ready-to-Wear group was on its way to Bali. The "potential" was enormous, they said. For the next hour, Mr. Traub heard that he should, among other things, remember that he would be dealing with "the Chinese" all over the place; remember that men's ties were an "absolute necessity" to see in Thailand; visit a crafts center set up by the Queen of Thailand to encourage farmers' children to learn traditional crafts; go to Bali for at least one day and see how Bloomingdale's is introducing polyurethane to certain Bali craftsmen.

Mr. Traub, the calm inside him still maintained, started away on a kind of run.

"Don't forget," Mr. Tomchin said, persisting. "When you go to Jim Thompson's in Bangkok to look at ties, Gerald Pierce, the design decorator there, will take you to T.'s, this open-air restaurant where you eat right next to the moving automobiles. You pick your seafood live right out of an open tank. Prawns, and clams with the most absolutely beautiful shells."

"O.K.," Mr. Traub said.

"And in Korea you'll have to get used to kimchi, this spicy cabbage with a lot of garlic," Mr. Tomchin said.

"O.K.," Mr. Traub said, and then, with control, added evenly, "O.K."

Still on the run, he started maneuvering his way through the crowds of shoppers, and, deftly slipping past customers, rapidly walked down all six flights on the down escalators.

11:30 A.M. Next stop: the headquarters of Oscar de la Renta, for the purpose of discussing fall strategies and finding a larger location for Mr. de la Renta on the designer floor. Mr. de la Renta was, as usual, looking impeccable—in contrast, but only slightly, to Mr. Traub, whose shoulders were beginning to lose their parallel alignment with his hips. Mr. de la Renta, in blue blazer and freshly creased tan slacks, sat tall alongside Mr. Traub and told him he was going to do a fashion show in Miami in September. "Governor Bob Graham, uncle of Lally Weymouth, is running for a United States Senate seat from Florida, and while I am there I will help him," Mr. de la Renta said.

Mr. Traub said that Bloomingdale's would probably be able to have a display of de la Renta clothes in the windows of the branch store in The Falls, south of Miami, at the same time.

Mr. de la Renta sat even taller in his chair.

"Bloomingdale's works very hard to be different and distinct from other stores," Mr. Traub said.

12:30 P.M. The Cotillion Room at the Pierre, for a lunch, given by the National Committee on American Foreign Policy, honoring the Honorable John C. Whitehead, Deputy Secretary of State. Bloomingdale's had its own table, and so did such other outfits as Goldman, Sachs & Company, the Morgan Guaranty Trust Company, Mobil Oil Corporation, the Rockefeller Center Management Corporation, and Young & Rubicam, Inc. There were also about a hundred and twenty individual guests—a kind of mixed Bloomie bag, which included Senator Roy Goodman, former Ambassador Francis L. Kellogg, H. Cabot Lodge III, Mr. and Mrs. Leonard Lauder, Marietta Tree, and Jerome Zipkin. Mr. Traub had gone to Harvard (magna cum laude, 1947) with some of the guests at the lunch and, like Mr. Whitehead, to the Harvard Business School. He greeted guests and was greeted by them, with enthusiasm on both sides, working his way obligingly from one to another with lightning speed and informing all of them of his plans to visit the Far East, of its huge economic potential, and of the terrific merchandise awaiting him there. Then he settled in, sitting with his vice-presidents at the Bloomingdale's table, where all ate heartily, and with a clear absence of guilt, a distinctly non-"Eat Healthy" meal.

THREE POEMS

MEN ROOFING

Bright burnished day, they are laying fresh roof down
On Chicago Hall. Tight cylinders of tarred felt paper
Lean on one another on the cracked black shingles
That shroud those undulant ridges. Two squat drums
Of tar mix catch the light; a fat cannister of gas
Gleams between a wreath-heap of old tires and a paunchy
Plastic sack, beer-bottle green. Harvest-moon-huge
On the roof, a TV dish antenna stands propped, cocked
To passing satellites and steadfast stars. The gutters
Overflow with starlings, lit wings and whistling throats
Going like crazy. A plume of blue smoke feathers up
Out of a pitch-black cauldron, making the air fragrant
And medicinal, as my childhood was, with tar. A quartet
Of men at work stirs through this still-life. Overhead,
Against the gentian sky, a sudden first flock whirls
Of amber leaves and saffron, quick as breath and fine
As origami birds. Watching from a library window opposite,
I see one man in a string vest glance up at the exalted
Leaves, then kneel to roll a roll of tar felt flat; another
Tilts a drum of tar mix till a slow bolt of black silk
Oozes, spreads. One points a silver hose and conjures
From its nozzle a fretted, trembling orange tongue
Of fire. The last one dips to the wrist in the green sack
And scatters two brimming fistfuls of limestone grit;
Broadcast, the bright grain dazzles on black. They pause,
Straighten, study one another—a segment done. I can see
The way the red-bearded one in the string vest grins and
Whets his two stained palms along his jeans; I can see
The one who cast the grit walk to the roof edge, look over,
Then, with a little lilt of the head, spit contemplatively
Down. What a sight between earth and air they are,
Drenched in sweat and sunlight, relaxed masters for a moment
Of all our elements! Here is my image, given, of the world
At peace: men roofing, taking pains to keep the weather
Out, simmering in ripe Indian-summer light, winter
On their deadline minds. Momently they stand balanced
Between our common ground and nobody's sky, then move
Again to their appointed tasks and stations, like amazing
Strangers come to visit for a short spell our familiar
Shifty climate of blown leaves and birdspin. Odorous,
Their column of lazuli smoke loops up from the incense-
Secret heart of their mystery. They ply. They intercede.

MORNING: THE TWENTY-SECOND OF MARCH

All the green things in the house
On fire with greenness. The trees
In the garden take their naked ease
Like Demoiselles d'Avignon. We came
Awake to the spider plant's crisp
Shadow printing the pillowcase
Between us. Now limp wrists of steam
Curl auspiciously up from the cup
Of tea I've brought you, and a blue jay
Shrieks blue murder beyond the door.
In a painting over the bed,
Five tea-colored cows stand
Hock-deep in water at the bend
Of a river—small, smoothbacked stones
Turtling its near margin. The sun
Spreads an open field like butter,
And the water is a flat sheet
Of tin. A brace of leafy branches
Leans over it from the far bank
And the five cows bend down to
The dumbfounded smudge of their own
Cow faces in the water. And here
This minute, at the bristle-tip
Of the Scotch pine, a cardinal starts
Singing: seven compound metal notes
Equal in beat, then silence, then
Again the identical seven. Between
The sighs the cars and pickups make,
Relenting for the curve with a little
Gasp of gears, we hear across the road,
Among the faintly flesh-pink
Limbs and glow of the apple orchard,
A solitary dove throating three sweet
Mournful Oms, then falling silent, then—
Our life together hesitating in that gap
Of silence, slipping from us and becoming
Nothing we know in the swirl that has
No past, no future, nothing
But the pure pulse-shroud of light,
The dread *here-now*—again reporting thrice
Its own silence. The cup of tea
Still steams between your hands
Like some warm offering or other
To the nameless, radiant vacancy at the window,
This stillness in which we go on happening.

WING ROAD

Amazing how the young man who empties
Our dustbin ascends the truck as it moves
Away from him; rises up like an angel
In a china-blue check shirt and lilac
Woollen cap, dirty work gloves, berry-red
Bandanna flapping his throat. He plants
One foot above the mudguard, locks his
Left hand to a steel bar stemming
From the dumper's loud mouth, and is borne
Away, light as a cat, right leg dangling,
The bright air snatching at that black-
Bearded face. He breaks to a smile, leans wide,
And takes the morning to his puffed chest,
His right arm stretched far out, a checkered
China-blue wing gliding between blurred earth
And heaven, a messenger under the locust trees
That stand in silent panic at his passage. But
His mission is not among the trees: he
Has flanked both sunlit rims of Wing Road
With empty dustbins, each lying on its side,
Its lid a fallen shield beside it, each
Letting the noonlight scour its emptiness
To shining. Carried off in a sudden cloud
Of diesel smoke, in a woeful crying out of
Brakes and gears, in a roaring of monstrous
Mechanical appetite, he has left this secret
Radiance straggled behind him where the crows,
Covening in branches, will flash and haggle.

—Eamon Grennan

LAST LESSONS

NIGHT was coming on. Charlie—my son, two and a half—was at the far end of the long, cluttered hall in our apartment, serenading a putty knife and a big pair of pliers from what we call, laughably, the utility closet. Charlie had rejected his Playskool Workbench, as usual, and had wheedled the supposedly forbidden real tools out of me by supplicatory escalation. “I can see the tools?” “I can get closer?” “I can touch them?” “I can lift them up?”

I gave in, because I wanted the quarter hour of peace with the newspaper that surrender would guarantee. I'm forty-four years old, and having to make decisions about my Uncle Sol and to supervise his care up at his farmhouse in the Berkshires for the last three months have taken such a toll on me that I've come to believe I can physically feel the years eroding toward me from the end of my life, especially at three in the morning, when I wake up and wonder whether Uncle Sol is uncomfortable or lonely, or when I have to call one of his nurse's aides and ask her not to help herself to another aide's special tea bags, or when the spectre of his meagre financial resources rises up to haunt me.

It is the middle of December and unusually cold—so cold that yesterday I took the subway home from Columbia (where I teach journalism) instead of walking. When I opened the door, Charlie was right there, holding the contemptible Workbench. He dropped it and immediately started in with an unctuous “Why don't you take off your coat? Take off it.” Elizabeth, my wife, was in the kitchen. “Is that you, Dave?” she called. I'd like to be able to say that in walking down the hall to greet her I was drawn on by the aroma of something cooking, but no such luck. Elizabeth had been trying to finish an article about hostages for *Popular Psychology* during the five hours Charlie was with the babysitter, and she had been occupied with him after that.

“Chinese?” she said. She was standing at the kitchen counter, poring over takeout menus.

“Great,” I said. She gave me a kiss—a real one.

“Chinese!” Charlie shouted from the hall, beginning to home in on the utility closet. “I can have dumplings? I can pay the man money?”

Forty-five minutes later we were sitting at the drop-leaf table in the dining room, eating dumplings and pineapple chicken and beef with snow peas out of cartons. The pliers lay beside Charlie's placemat, and a skirt of rice surrounded his chair.

“Did you finish the piece?” I asked Elizabeth.

“Barely,” she said. “I finally got in touch with Ruth Paris, that psychologist I told you about. She says that hostages often regress so far that they begin to regard their captors as parents and—”

“More rice,” Charlie said.

I cocked an eyebrow at him.

“Please!” he said.

“What's new with you?” Elizabeth said.

“The dean asked me if I'd like to go out to the Midwest in April to be on a panel at some journalism school,” I said. “They're having their twenty-fifth anniversary.”

“Maybe Charlie and I could go, too,” Elizabeth said.

“It will just be for a couple of days.”

“Where we going?” Charlie said.

“Well, Dad may have to go away for a couple of days, but not for a long time,” I said.

“What?” Charlie said.

“It's in Kansas or Missouri or somewhere,” I said. “Anyway, it's a state, the way New York is a state. New York is a city, too, but you don't have to worry about any of that.”

“What?” Charlie said. He looked at me in utter bewilderment. Then his face brightened, and he said, “It has tools?”

The telephone in the kitchen rang, and Elizabeth got up to answer it.

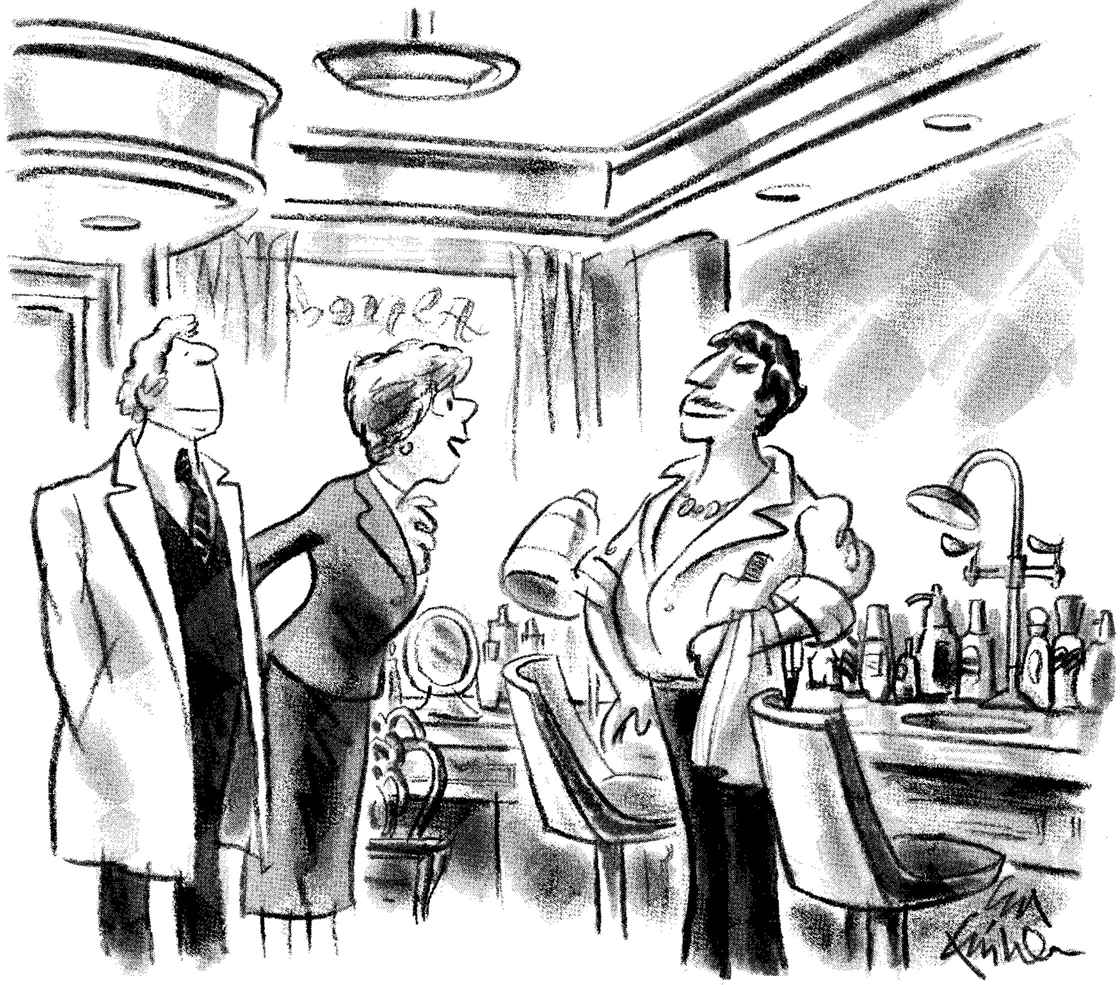
“It's for you,” she said. “Dr. Reilly.”

Uncle Sol's doctor up in Sheffield.

UNCLE SOL had to go into the hospital in Great Barrington four times during August, September, and October, to have the fluid that kept accumulating around his lungs removed. The last two times, he almost didn't recover from the procedure. The fluid was the result of congestive heart failure—a condition he had had for years but one that up until last summer had been controlled with digitalis. Just after he reached ninety, his tough old heart had begun to give out in an irremediable way, and his kidneys started to fail. “The old gentleman is in his last days” is how Dr. Reilly put it.

Dr. Reilly was a general practitioner, who had taken over from a bearded resident the third time Uncle Sol was hospitalized. The resident called Dr. Reilly in for a consultation, and he and Uncle Sol got on like a couple of old shipmates—which was surprising, since Dr. Reilly, I learned, was a devout Catholic with six sons and three daughters, a Republican, and a rich man, and Uncle Sol was a devout atheist, a bachelor, a Communist, and . . . well, Uncle Sol. In early September, in handling Uncle Sol's mail, I came across a mailing-list invitation to a “Salute Dr. Kevin Reilly Day” at Pittsfield General Hospital. I asked a storekeeper in Sheffield about him and was told, “Oh, he's a great man. Everybody in Berkshire County knows him. He was born right here in Sheffield seventy-some years ago, you know. Oh, everybody just loves him.” At first it seemed strange that Uncle Sol had chosen as an aide-de-camp for what was probably his last stand a man so different from him, but, then, as I reminded myself, Uncle Sol had had a lifetime of taking on odd recruits.

“At some point he will drift into a uremic coma and then just slip away from us,” Dr. Reilly went on to explain about Uncle Sol's prognosis. “It is by no means the worst way to go.” Dr. Reilly and I were standing in the living room of Uncle Sol's farmhouse. It was about two on a bright, chilly November Saturday. That morning, I had left Elizabeth and Charlie in our apartment, in Charlie's room, building an elaborate and fanciful version of Uncle Sol's place—which Charlie had come to love during the summer—out of Lego blocks. Having decided that the farmhouse was also a zoo and a gas



"*Alfredo, this is my Stanley. I've brought him in to be shorn.*"

station, Charlie was trying to force a flexible plastic straw into the mouth of a little toy lion. "It needs gas," he said, wriggling away from my kiss. Elizabeth had offered her own and Charlie's company on the trip, but I didn't think Charlie would go for so much driving. Anyway, it wasn't a recreational trip: I was going up to visit Uncle Sol, to decide whether the deteriorating old house could be kept warm and comfortable enough for the deteriorating old man as the winter drew on, and to talk to Dr. Reilly about his condition.

Dr. Reilly had asked me to call him from Uncle Sol's, but when I walked into the house, there he was, sitting in the red wing chair at the table in the living room, looking at an old family photograph album of Uncle Sol's. I was pasted in it somewhere, standing on Uncle Sol's shoulders about forty years ago. And Uncle Sol was in there at about four, too, standing on his father's shoulders at the turn of the century, in front of a textile factory in Elizabeth, New Jersey, the considerable profits from which my grandfather shared equally—communistically—with his employees. Sunlight streamed in the window and over Dr. Reilly's slightly stooped shoulders as he studied the album. He started a bit when I cleared my throat to let him know I was there.

"Dave," he said. "I dropped by to see the old fellow on this beautiful day, and then Sarah said you were coming up, so I thought I might wait for a while." He got up to shake hands, his ruddy face beaming with Irish heartiness. Stooped shoulders and all, he was six-six if he was an inch. "Sarah is in there giving our friend an alcohol rubdown," he said, nodding toward Uncle Sol's bedroom.

"How is he doing?"

"The same, really."

"It's incredibly nice of you to make a house call on Saturday," I said.

"Well, I missed him. And, you know, I was over here a couple of weeks ago, just after Sol got out of the hospital, and I liked the place. It's very peaceful. The view from the driveway is lovely. I feel at home here."

"Still, you must be busy," I said. "I know Sol appreciates your coming out here. He thinks you're something."

"I am, I really am," Dr. Reilly said.

Sarah Deane, one of the nurse's aides who had been staying with Uncle Sol twenty-four hours a day since October, at a cost of about a thousand dollars a week, came out of his room. Sarah wore bright colors for a woman in her sixties, and I had hired her for her general, although sometimes clinical, sunniness. There seemed to be hundreds of kind women in the Berkshire Hills looking for this sort of work. I'd interviewed ten, chosen six, and set up shifts and backups. I'd also rented a hospital bed and a walker and a home oxygen system. Uncle Sol had enough money left to go on like that for not much more than four months, as I had every reason to know, since I spent about an hour a day in the city sending checks up to Massachusetts and keeping his records straight. During the interviews, I'd asked each applicant if she would mind staying with Uncle Sol if he was actually dying. Sarah had replied, "Oh, no—I love terminal." She greeted me cheerfully now and said that she had finished the rubdown and that I could go in and see Uncle Sol.

"Just one more minute of your time," Dr. Reilly said to me. "You know, Dave, he isn't quite the same, really." And it was then that he went into the medical detail and said that Uncle Sol didn't have much longer to go. "A month, maybe two," he said in conclusion. "I don't think there will be any point in any heroic treatment. He told me last summer that he didn't want things prolonged senselessly. I know you're wondering about keeping him here, and I don't want to interfere, but I would welcome the chance to come out and see him from time to time."

Where else was I going to find that kind of attention for Uncle Sol? If the furnace gave out or the electrical system blew or the house just plain fell down, he could always go back to the hospital or to a nursing home, or even to his apartment in New York, in an ambulance. If it was O.K. with him, he would stay right here, surrounded by his Reginald Marsh drawings and Mexican rugs, the incomprehensible old board games and scratched 78s stuffed into cupboards, the squirrels in the walls and the mice in the pantry, the sounds of the old house trying to keep out the bitter winds of yet another winter. And the ministrations of these country people, who seemed to regard him as a gentleman from another, older, somehow more impressive world. There appeared to be more respect for age in the country than in the city, and more room for dying.

"He's wandering a little today," Sarah told me. "The way he did when you called on Wednesday and Gloria was here. She said he ordered you to come up and paint the front hall."

"He might have done the same thing even if his head was clear," I said.

"I know, I know," Sarah said. "At least he got rid of that gas that was on his intestine yesterday."

Dr. Reilly said goodbye, and I went into Uncle Sol's room and stood next to his bed. His eyes were closed. He had lost so much weight that there might have been nothing more than kindling under the covers. The skin on his bald head was taut and dry, as if it had undergone a curing process, and his ears and nose looked bigger than ever—elephantine. A clear plastic tube with two openings at the end, just under his cavernous nostrils, carried oxygen to him from the large cannister under the high night table at his bedside. The faint hiss and bubbling of the oxygen through a bottle of distilled water on the cannister's side sounded like rain approaching.

Fool's Garden

"Uncle Sol, I'm here," I said.

"No need to shout," he said weakly.

"Sorry."

"You always were a noisy brat," he said. "Father couldn't stand it sometimes. He would have to leave the house."

"Sol, you're thinking of your brother Joe—my father. I'm Dave."

He peered closely at me. "Why, so you are. Oh, Davey, you must think I'm a senile old eejit."

"No more than usual."

His eyes closed, and there was silence in the room. Then he said, "I'm so sorry about Nick's death. He was such a fine guy."

Nick was my brother. He died of septicemia after routine knee surgery when he was twenty-seven and I was twenty-four.

"That was a long time ago," I said. "1967."

"Really?" Uncle Sol said. "It seems like yesterday."

"Sometimes it seems that way to me, too."

"He turned sorta conservative for a while after law school, you know," Uncle Sol said. "But I brought him around about that war over in wherever it was."

"Vietnam."

"Yes, Vietnam."

"Well, um, with all due respect, Sol, I think Nick pretty much brought himself around on that."

"You never heard the conversations we had," he said. "You're talking a lot of bulldozers, as usual."

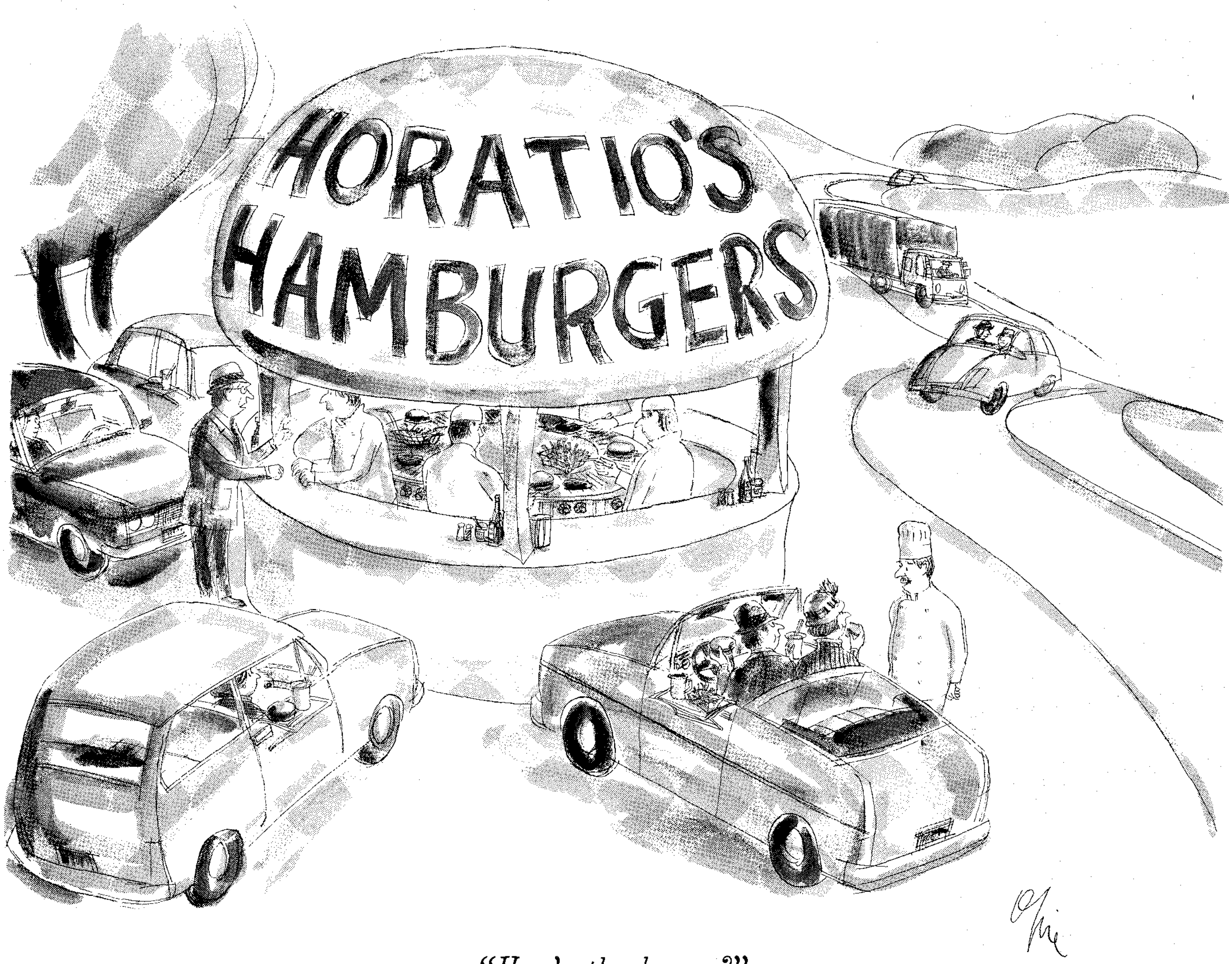
I couldn't have heard the conversations, because you didn't have them, I thought, but this time I held my tongue.

"Listen, I didn't come up here to argue with you," I said.

"Are you sure?"

"I thought we should talk about whether you want to stay here, assuming you're going to need medical attention for a while. I could try to arrange things so that you could go back to the city. I wouldn't mind at all."

"I have a great deal to do there, naturally," Uncle Sol said. "The people at the *Daily World* always



"How's the burger?"

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need all the volunteer help they can get. And I should be looking after Ella." Ella is a ninety-four-year-old cousin of ours who has always spent her summers at Uncle Sol's and lives during the winter in a housing project in New York, and if anyone would look after anyone, it would be the other way around. "But to tell you the truth, Davey, I'm feeling too punk to travel, so I think I'd better stick around here—at least for the time being."

"O.K., fine—I hoped you would say that."

"So you won't have to think about me, isn't that so, boy? So I'll be off your mind."

"Charlie will miss seeing you in New York," I said.

"Still spoiling him?" Uncle Sol said. He knitted his brow.

"Are you in any pain?" I asked.

"No," he said very quietly.

"You don't hurt anywhere?"

"No"—a little more loudly. "Ask me again and I'll tell you the same."

"Are you afraid?"

He looked at me in puzzlement. "Of what?" he said.

"Oh, I don't know. All these strangers coming and going—that kind of thing."

"Dr. Whosis is no stranger."

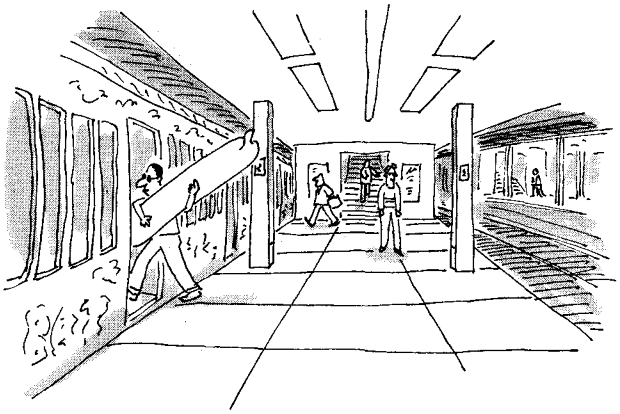
"Reilly."

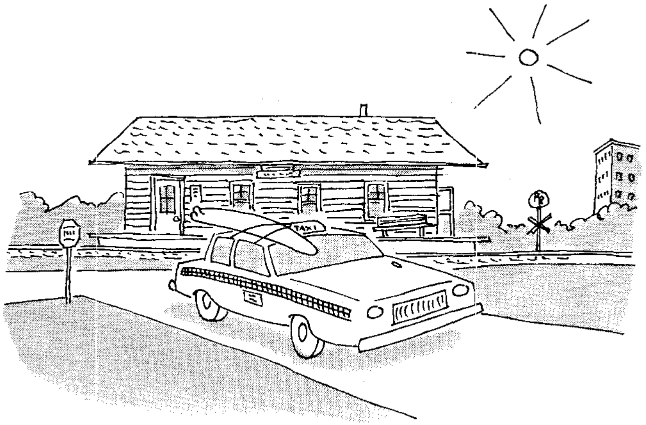
"Yes. He's a good man—just a little misguided in some ways. He can learn a lot from me. The only thing I'm afraid of is that you're going to hang around here and not let me get my rest."

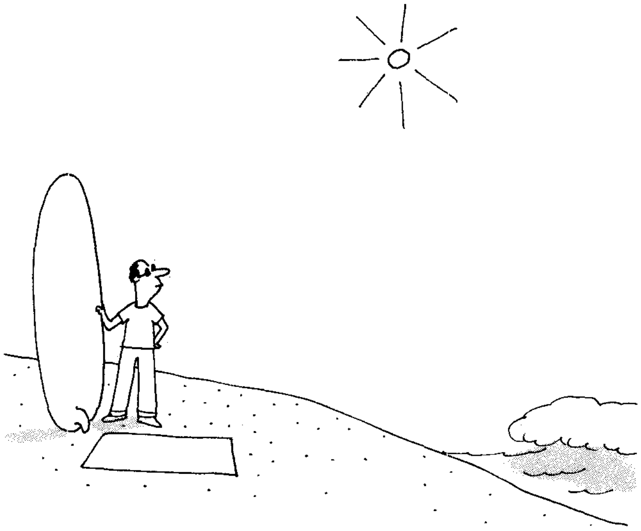
Nevertheless, as I left Uncle Sol's room I changed my plans and decided to spend the night, partly for Uncle Sol's sake and partly because I wanted to. Like Dr. Reilly, I found it calm there at the farmhouse. Sarah and her colleagues, with time on their hands, had made the place as neat as such a jumbled depository could be. It was a house that, like a church, had—at least for now—only one function, that was free of strollers and tricycles and bags of groceries and briefcases and phone books open on the couch, and free, too, of the cross-purposes of lives lived under the pretense of ignorance of their ending.

Sarah was sitting in the living room in the red wing chair, where Dr. Reilly had been when I arrived. She was working on a vivid needlepoint motto, and the concentration involved gave her ordinary looks dignity. The sun was low, drawing a line across the middle of the trees outside the window, with everything above the line as brilliant as flame in its reds and yellows and everything below sombre, almost obscure. I told Sarah that I'd decided to stay until the morning.

"What a fine idea," she said. "It







will mean a lot to him. He thinks the world of you, you know."

"You and the others are taking such good care of everything around here," I said. "I think he's just going to stay on—he seems to want to."

"We *were* wondering about how long our jobs would last," Sarah said. "With Christmas coming and all that."

"I guess they'll last as long as he does."

"And that may be for a good long time yet, no matter what the doctor says. I didn't think he could live through that terrible sinus inflammation last week. Your uncle has a strong will, you know. And he's so very interesting."

There was nothing for me to do. I couldn't even call Elizabeth, because it was about four, and she'd be picking Charlie up at the babysitter's. So I put on my coat and went out of the house and took a walk in the last light up in the meadow behind Uncle Sol's. It came to me as I struggled up the hill how tired I was, and in the middle of that lovely field, with the sun just catching the tops of the hills across the valley to the west and the yellow timothy nodding away around me at whatever the wind was saying, I wished there were some way I could just walk away from everything.

When I went back down and called home a little later, Charlie picked up the phone before Elizabeth could get to it. "Charlie, let Mommy have that, please," I heard her say.

"I want it," he said.

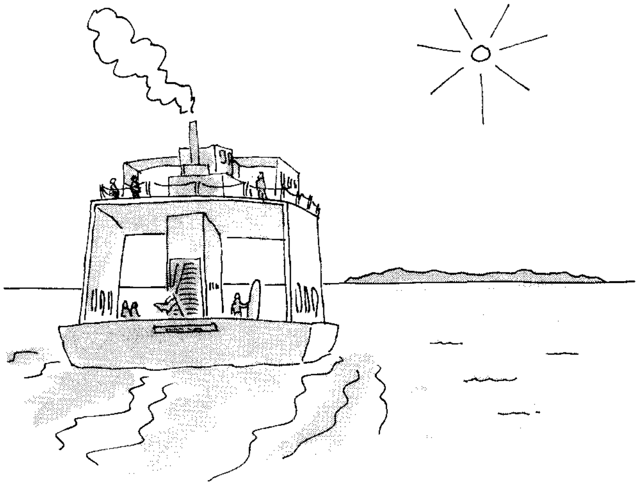
"No, I have to answer it."

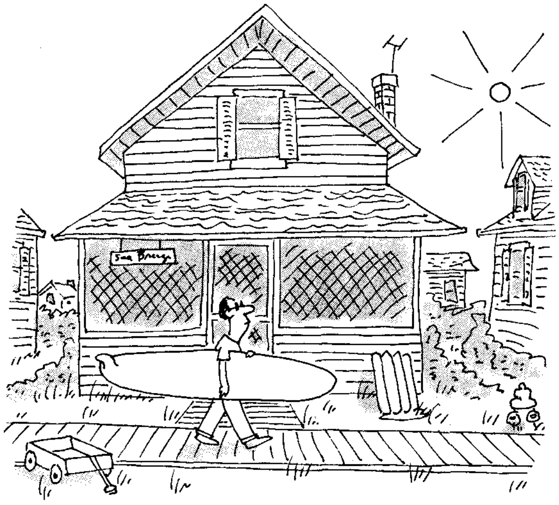
"You say no, I say yes," Charlie said coolly, just before Elizabeth wrested the receiver from him. That almost made me reconsider my decision to stay the night, but then I heard Charlie go crying loudly down the hall, and Elizabeth dropped the phone, and while she fumbled for it for a second, the peace at Uncle Sol's reasserted itself.

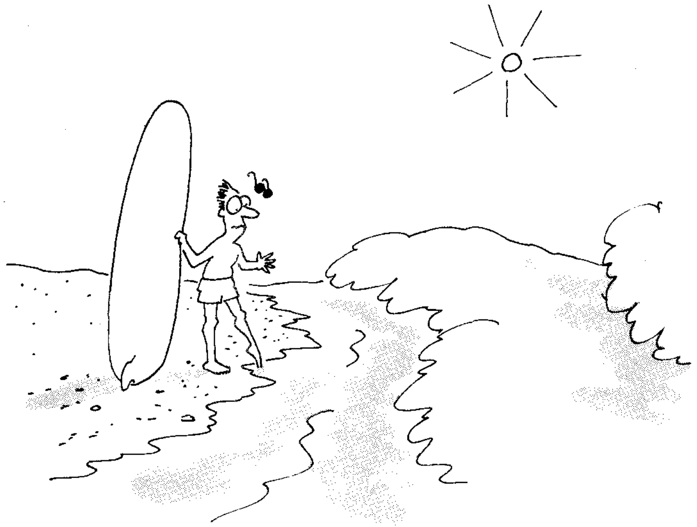
I had dinner in Great Barrington at a restaurant called Tiger Lily's, the most recent flower of the town's gentrification, but the season was between gentries right then, with summer people gone and skiers not yet arrived. Instead, there were a lot of beery hunters out from Boston, and as I ate at the bar I listened to them talk. They were having a good time.

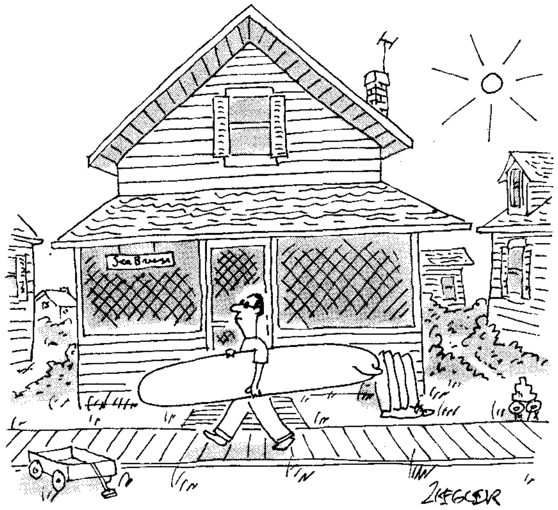
In the morning, after a cup of coffee with Martha Scott, the aide who had come on at midnight, I stood once again at Uncle Sol's bedside. We talked for half an hour or so—about small things. The lateness of the fall this year. The old dictionary stand in a corner of his room which he wanted me to sell because he thought that one of the "gals" taking care of him could use the money. The hermitlike ways of Fred Becker, the man who clears the driveway of snow in the winter. They say he will shoot at you if you go on his land. At one point, Uncle Sol began to tell me a dream he'd had during the night, about playing Ping-Pong outdoors with a rich woman whose butler picked up the ball every time it fell to the ground. The account of the dream slowly turned into a recollection of something he thought had actually happened, and just the other day, at that, and then into plans to receive the woman the following week, on the visit that Uncle Sol had finally decided to permit her to pay him. I brought him back to what passed for reality in that strange place, and he apologized for his confusion. I told him that it was all right, and that I loved him. Just as he went back to sleep, I saw with delight, outside one of his windows on the north side of the house, nine or ten wild turkeys running across what used to be the vegetable garden. The first rays of the sun made roads of light and shadow for them, and they went clumsily along as if there were somewhere they had to be by the time the sun was all the way up. I would have awakened Uncle Sol again just to point them out to him, but I knew his eyes were too weak to see even half that far.

THAT is how it came about that Uncle Sol has remained up at his farmhouse in the hills as the days









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shorten and he dwindles away toward death. For more than a month now, I've been calling Dr. Reilly twice a week, trying from a distance to settle disagreements among the women who are taking care of Uncle Sol, urging friends of Uncle Sol's who were going up to their country houses to visit him, phoning my cousin Ella to keep her posted on Uncle Sol's condition, sending those enormous checks northward on his behalf. I have had full power of attorney for Uncle Sol for two years now. I can sign the checks "David Leonard (POA)" or just sign Uncle Sol's name. Elizabeth says that "POA" really stands for "Prisoner of Altruism." I point out to her that since I'll inherit Uncle Sol's place when he dies, I have no choice about helping him. She says I would do it anyway, but I'm not so sure. Maybe the person I am now would do it anyway, but would I be the person I am now if Uncle Sol hadn't announced a few years back that he was leaving the place to me? Anyway, I always not only choose Uncle Sol's name for the check's bottom line but do my best to imitate his signature, as if I were desperate to be getting away with *something*.

Last night, when I got up from dinner to take Dr. Reilly's call, which could only be ominous, Elizabeth picked Charlie up off the booster seat, brushed the rice from his overalls, and hustled him away down the hall.

"Dr. Reilly, it's Dave," I said. "I guess something has happened."

"Well, the old gentleman seems to be going fast, I'm afraid. I'm out here at the house now, because Gloria gave me a call at home. Sol is unconscious and can't be roused, and his extremities are very cold. I don't think he can make it for more than another day or two, really, and it could well be much less than that, if his kidneys have shut down. I don't like disturbing you, but I thought you should know."

"Do you think I should go up now?" I asked.

"I can't answer that," Dr. Reilly said.

"Of course you can't. I'm sorry. Do you think he will last through the night?"

"He could fool us all. He fooled me twice last fall with that pleural effusion, and he doesn't seem to be in any discomfort now. I just can't say, really."

"It's good of you to come out at night," I said.

"Oh, I'm a great man, I am," Dr. Reilly said. "That's what they all tell me, at any rate. Dave, I'm going to go home now. If things take a sudden slide downhill, Gloria will call me again. Why don't you talk to her about your plans?"

"Let me think it over for a few minutes. I'll call her."

"I'll come out again tomorrow if

he's still with us," Dr. Reilly said.

I found Elizabeth and Charlie in Charlie's room. "Shall we build a farmhouse?" he said when I came in. "Shall we build a zoo?" Between and in the middle of his invitations, which got steadily louder, I filled Elizabeth in, briefly and euphemistically, about what was going on up in the country. I said I thought I should go right away.

"This is beginning to get to me," she said. "I'm sorry, I care about Uncle Sol, too, but I can't help it."

"I want to see Uncle Sol," Charlie said. "I want to go to the farmhouse."

"It's still a lot harder on me," I said. "I've kept it away from you and Charlie as much—"

"I wake up in the middle of the night when you do, you know."

"But it's all going to be over soon—"

"Shall we build a farmhouse?" Charlie implored.

"I really think I ought to—"

"Sometimes it seems as though you're almost using it to avoid things here."

"Don't be ridiculous," I said. "I wish he had you-knowed last summer, or five years ago, for Christ's sake."

"*I'm talking!*" Charlie shouted.

"Don't say that," Elizabeth said to me. "Look, just go up first thing in the morning. I'll call and cancel your classes for you."

"You'll have to share the guilt if he you-knows tonight."

Relieved and resentful, I hoisted Charlie up in my arms just as he was about to start crying in earnest. Elizabeth put her arm around us both and kissed me on the cheek.

"We're a family," Charlie said.

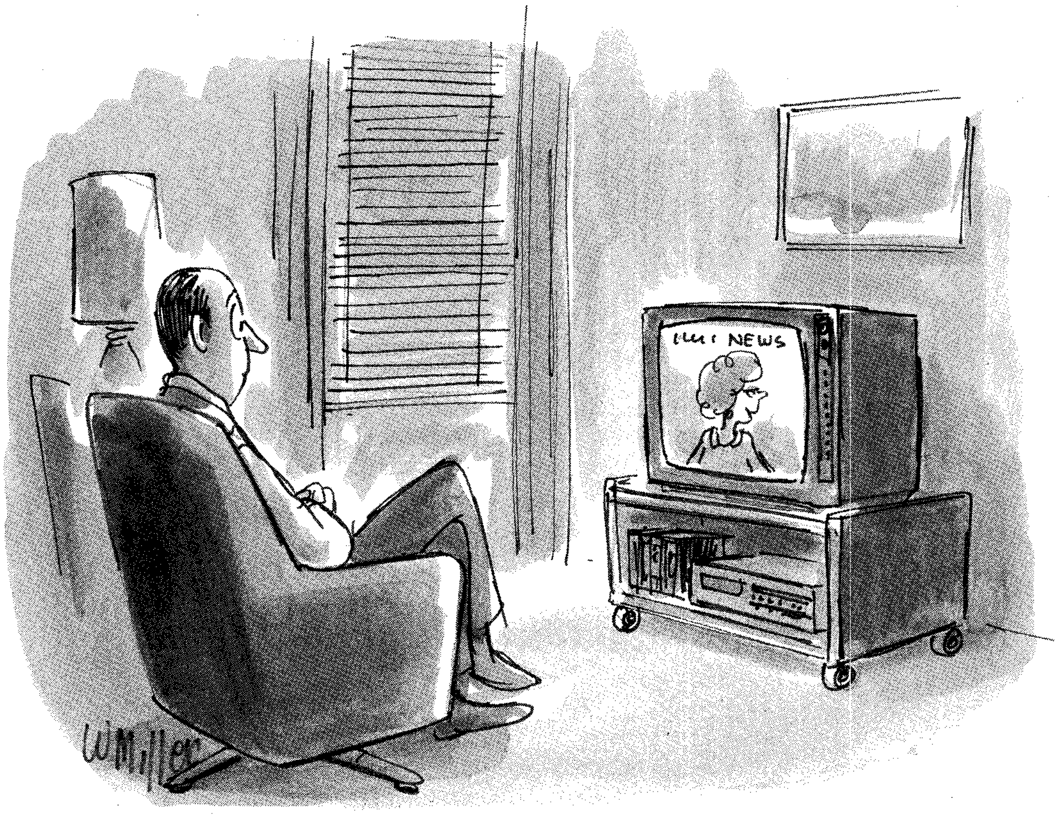
"If you say so," I said. "Let's go have our fortune cookies," and back down the hall we went. My fortune said "Society prepares the crime, the criminal commits it," and I couldn't help wondering whether the *Daily World* had gone into the fortune-cookie business. Elizabeth's said "You have the wisdom of the ages at your command." Charlie squinted at his little strip of paper and said, "I think I can know it."

I built a farmhouse, a zoo, and a museum with Charlie, gave him his bath, and read "The Cat in the Hat" to him three times, while Elizabeth wrapped presents in the living room. After he was asleep, I called Ella to tell her what was going on.

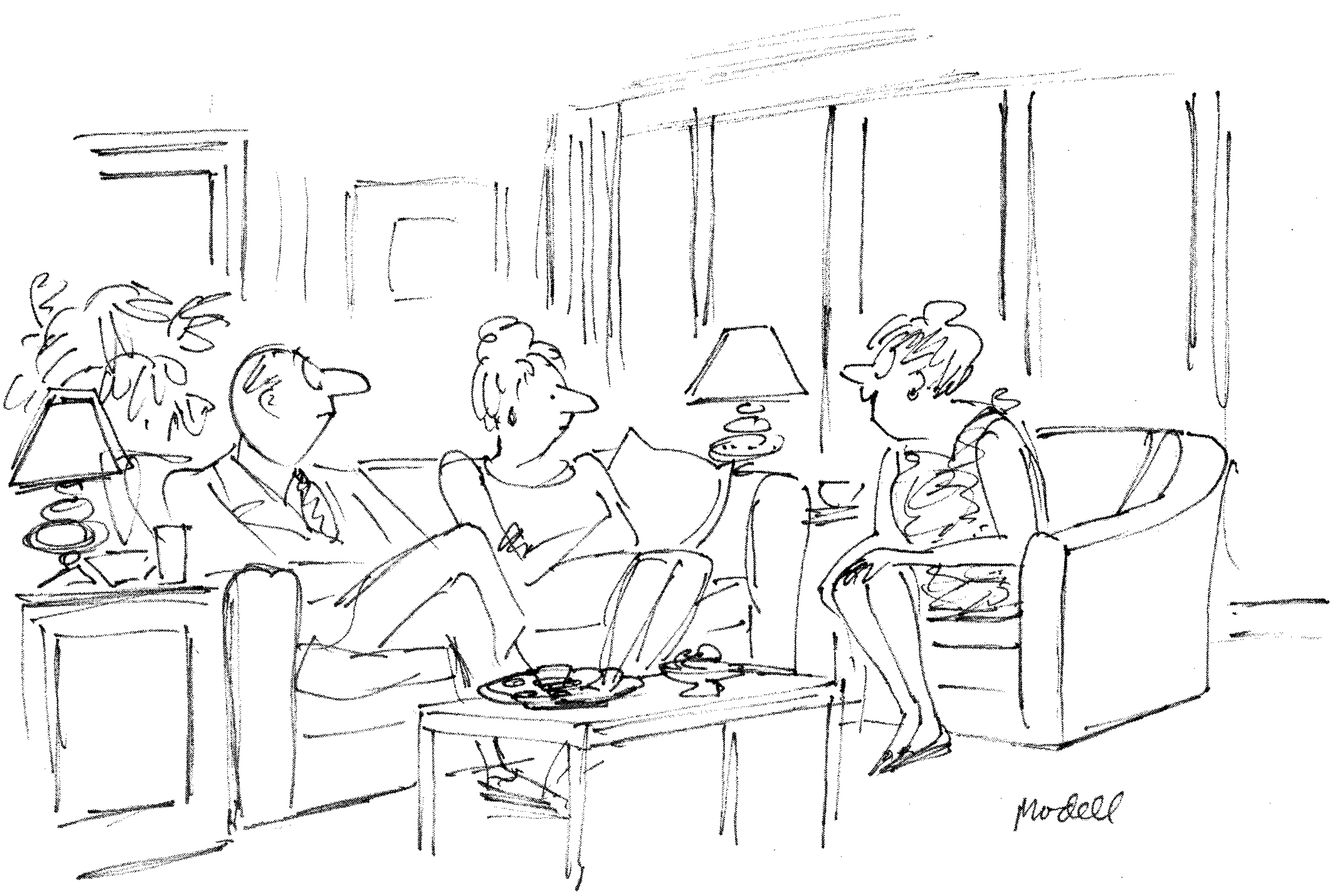
"Well, Mister, it's hard on you," Ella said when I was done with my report. "I'm glad to hear you're not racing up there tonight. Think of the cold, and it's supposed to snow, too. How's the boy? Well I hope. And Elizabeth? She's some gal. Oh, poor Sol. I'm glad he's not in pain. I wish there was something I could do to help. Well, so long."

AND *that* is how it has come about that I am barrelling through Sharon, Connecticut, at 8 A.M. today instead of 8 P.M. yesterday. After a surprisingly sound sleep, I called the farmhouse at six this morning, and Sarah told me Uncle Sol was barely hanging on. "If only he would void," she said just before we hung up. "That would make me so happy." I feel as much in a race against time and conscience as I would have last night, but at least I don't have any guilt about leaving Elizabeth and Charlie behind this morning. When I got out of bed, Elizabeth said groggily that she thought they should come with me, but I could tell she didn't mean it.

Ella's snow held off until dawn. It started in New York just as I was pulling out of a precious parking spot in front of our house, but it remained light until I turned off Route 22 near Wassaic. There the wind began to swirl and the sky thickened, as if some rich frozen confection were being prepared by an unseen hand above the hills. The grayness of the Harlem Valley, with its cheesy motels and diners and malls and boarded-up farm stands and, at Wingdale, its gigantic, ghastly red brick repositories for the mentally ill, gave way just over the Connecticut border to rolling countryside and a peaceful world of lovely farmland beginning its long winter rest. There are few cars on the road now—every now and then I encounter a truck laden with Christmas trees heading south—and the tires of mine are quiet on the snow. If Uncle Sol were with me, he would say, "What's your rush, boy? You trying to finish me off? Why don't we stop for a minute at that little place near Salisbury and get a bite?" And if we did that, he would complain



"Thanks, Bruce, for that featherhead item. Now it's back to Ed, with a story that will scare the pants off everyone."



"Marvin will join us in a few minutes. He's on the terrace, checking for mildew."

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about the prices and stop just short of refusing to allow me to pick up the check. He would talk about the days when he called square dances at the Litchfield Hill School, and about how sorry he felt for the boys who were having their values ruined by their rich parents. He would tell me how I was spoiling Charlie, too, and then interrupt himself to ask if I ever played the guitar for him. He would remind me of the summer he taught me how to play. I was fifteen. "You were the laziest thing I've ever seen," he would say. "You had a feeling for music, and why you liked that rock-and-roll business I'll never know. 'Here, learn something worthwhile,' I told you one day and showed you a few chords. Do you remember what you said? You said, 'I don't want to start on this, because I'll get interested and then I'll have to work at it.' But you went ahead anyway—I made you. And aren't you grateful now?" And, Sol, do *you* remember the story you told me that same summer, after you found me necking out in the barn with that girl, Jennifer, from the cottage down on William's Lake? "Now, it's only natural that you are interested in girls," you said. "But you have to be careful, or it will ruin you. I knew a young man about your age once who was a very promising singer. He was training for the opera. But then he got involved with a gal, and he was much too young for that. The whole business got the better of him, and it reached the point where if he saw a pretty girl out in the audience when he was onstage he would get aroused and have to stop the performance. That's the kind of thing that can happen."

Tyranny, tyranny. Maybe not over my politics or my character, which is what he was aiming for—I'm only a little left of liberal and definitely this side of priapic—but certainly over a large portion of my memory, which ought to be dominion enough for anyone, and certainly for the rest of my life. Still—or therefore—I would like very much to have the chance to say goodbye to him, and I hope I make it in time. I hope I make it at all, what with this blanket of snow descending and the silly mistiness in my eyes.

Through Lakeville and along Under Mountain Road. Right on Berkshire School Road over to Sheffield. Then up into the hills to the east, swishing along over the snow, with only the thought of Charlie keeping me from being entirely reckless. Up the driveway and out of the car and up to my calves in whiteness as light as feathers. Sarah's car is here, and there's smoke coming out of the chimney. The quiet is complete, until I stamp the snow off my slacks and shoes on the porch.

Sarah greets me with "You won't believe this, and I don't believe it myself, but he has come back. He came to about two hours ago and said he was hungry. He ate a whole jar of that Gerber applesauce and two pieces of toast. Then he passed some water. I was never so glad to see urine in my life. He's weak still, but he's breathing much better and his skin is warm. I don't understand it myself. It must be some kind of miracle."

"I'll be damned," I say. "He's still

putting us all through hoops, isn't he?"

"He knows you're coming, and he wants to see you," Sarah goes on. "I called Dr. Reilly to tell him that things were better, and he said he wanted to come out anyway, so I expect he'll be turning up soon, too."

I go through the living room and into Uncle Sol's room without taking my coat off. He is propped up on some pillows.

"Is that you, boy?" he whispers. "What took you so long?"

"You gave everyone a real scare," I say.

He squints at me and says, "What do you know—you're going gray, aren't you, Davey?"

"And no wonder," I say.

"Maybe you'll finally grow up after all," Uncle Sol whispers.

"I have grown up," I say.

"I was just kidding."

"Listen, let me take my coat off, and I'll be back in a minute."

"Is it snowing out?" Uncle Sol asks.

"Yes—hard," I say. "I was sliding from one side of the road to the other for the last five miles."

"Well, don't leave tracks all over the place," he says.

I stand there for a bit longer, and he seems to be drifting off. But then he says, "How is what's-his-name—your son?"

"Charlie's just fine," I say.

"Do you think he would remember me?"

"Of course he does. Elizabeth and I were talking about having a party after Christmas and she asked Charlie who he wanted to come, and the first thing he said was 'Uncle Sol.' " Actually, Uncle Sol was Charlie's second choice; his first was the Muffin Man.

"Well, at least he has some intelligence, though I don't know where he got it from," Uncle Sol says, a smile playing across his lips.

I go back into the living room, where Sarah has settled down to her needlepoint. The long, bright-threaded motto has as its title "Friendship."

"That looks like hard work," I say.

"It's for my daughter's new house," she says. "She got married a few months ago, and now there's a baby on the way. Her pelvis is narrow, but the doctor says that shouldn't be too much of a problem."

I sit down across from her at the big table near the window.

"So what exactly happened with Sol?" I ask.

"Well, he woke up about twenty minutes after you called. He was just much better suddenly. I tried to get back to you, but your wife said you'd already left."

"Oh, that's O.K.," I say. "It's not every day that one gets to see a miracle, I guess."

"He said the strangest thing just after he woke up, though. He said he had been over there for a while, but that it wasn't time to stay yet."

"What?"

"He said he had gone over there for a while but the big boss said he wasn't ready yet."

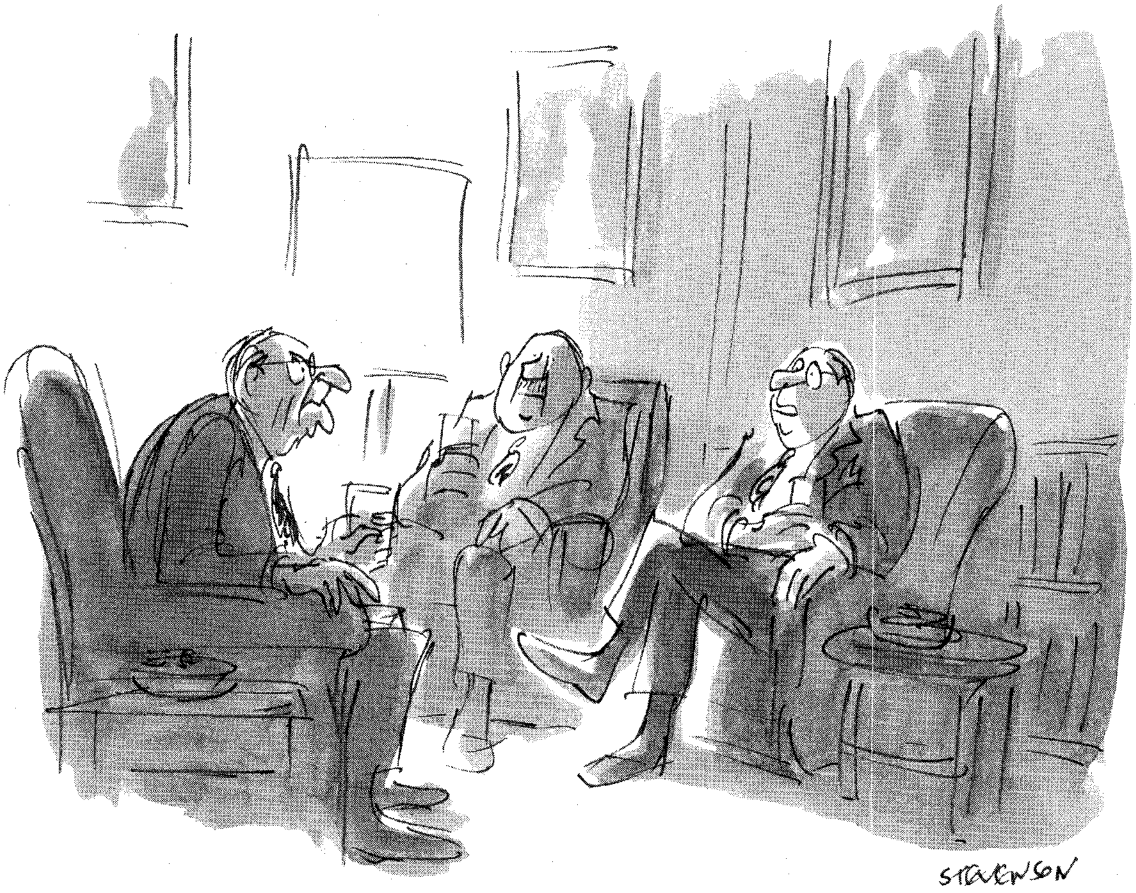
The sky outside is low and portentous-looking, and the snow is being driven against the window by a strong wind. It makes little tapping noises, as if something were trying to get in.

"The big boss?" I say.

"That's what he said. He said he'd seen his mother there, and then he began talking about the big boss again. I asked him who he meant, and he got irritated, the way he does, and said, 'You know perfectly well who I mean, young lady.' "

Out the window I catch sight of a procession of fat trolls on the lawn, way out by the gate that leads to the orchard. The shapes are blurry and dark and they seem to be an uncanny complement to Sarah's story, until I realize that it's just the wild turkeys again, trekking slowly through the snow as if they were on the last leg of some daring expedition.

"Oh, before I forget," Sarah says. "After you left the last time, your uncle set me to looking through his desk for a letter. He wanted you to see it, he said. I've kept it right there, on the table."



"I don't think that Bart Giamatti is actually going to play baseball, Miles. I believe he's going to more or less be on the management side."

I pick up the yellowed envelope and see that it's from my brother to Uncle Sol, and that the postmark says 1966. "Dear Uncle Sol, I just wanted to thank you for talking to me for such a long time about Johnson and our policy in Southeast Asia," it begins. I don't really want to read a letter from a dead person right now—it gives me even more willies than I already have, what with turkey parades that look like they're out of the Twilight Zone and Uncle Sol's sojourn over there, wherever it was.

The sound of tires spinning on snow at the bottom of the driveway provides me with an excuse to put the letter aside. Dr. Reilly's car, the noise of its engine muffled, pulls up in front of the house. The door opens and I see the doctor's long legs emerge, but instead of getting out he just sits there, looking at the white hills across the valley. He takes something out of his pocket, and though I can't see it I know from the way his hands are working that it's a rosary. When he has finished, he starts to trudge up to the porch, and I get up to open the door for him.

"Hello, David," he says with a big smile as I take his coat. "Now, don't criticize me—I said he could fool us. You'll have to admit that sometimes there are things we don't understand. You know, I'm so glad that Sol is not departing from us just yet. He and I have had some long conversations over the past few weeks, and I've been learning a lot from him. As wise as I am and at my age—imagine."

"Yes, imagine," I say. "Excuse me for just one minute, Dr. Reilly—I told him I'd go right back in to see him."

"Of course, of course—I'll just have a little talk with Sarah."

I am drunk with tiredness, and my back aches from driving, and I feel grimy and aged, and all I want to do is call Elizabeth and let her know what has happened, and ask her to call Ella and tell her (I can hear Ella: "Oh, that's wonderful. What a relief. Did Dave drive up there in this terrible weather? Is he all right? The poor guy—he's going through a lot. Well, I hope the boy is healthy. So long"), and then say that I'm on my way home and then actually *be* on my way home, and away from this hushed place and its surface neatness and its narrow thanatological business, and away from Uncle Sol and his chats with the big boss and his pausing long enough with one foot in the grave to teach a few last lessons, and back to the vital disorder of home, to my good wife, whose hostage I irretrievably am, and to my son, who is to me what hardware is to him. But no—not for a while yet.

Uncle Sol is half asleep and moaning a little. "I'm here," I say. "Are you in pain?"

"No," he mumbles.

"You were moaning, so I was wondering if you hurt somewhere."

"Yes," he says quietly.

"You *are* in pain?"

"Yes."

"Where?"

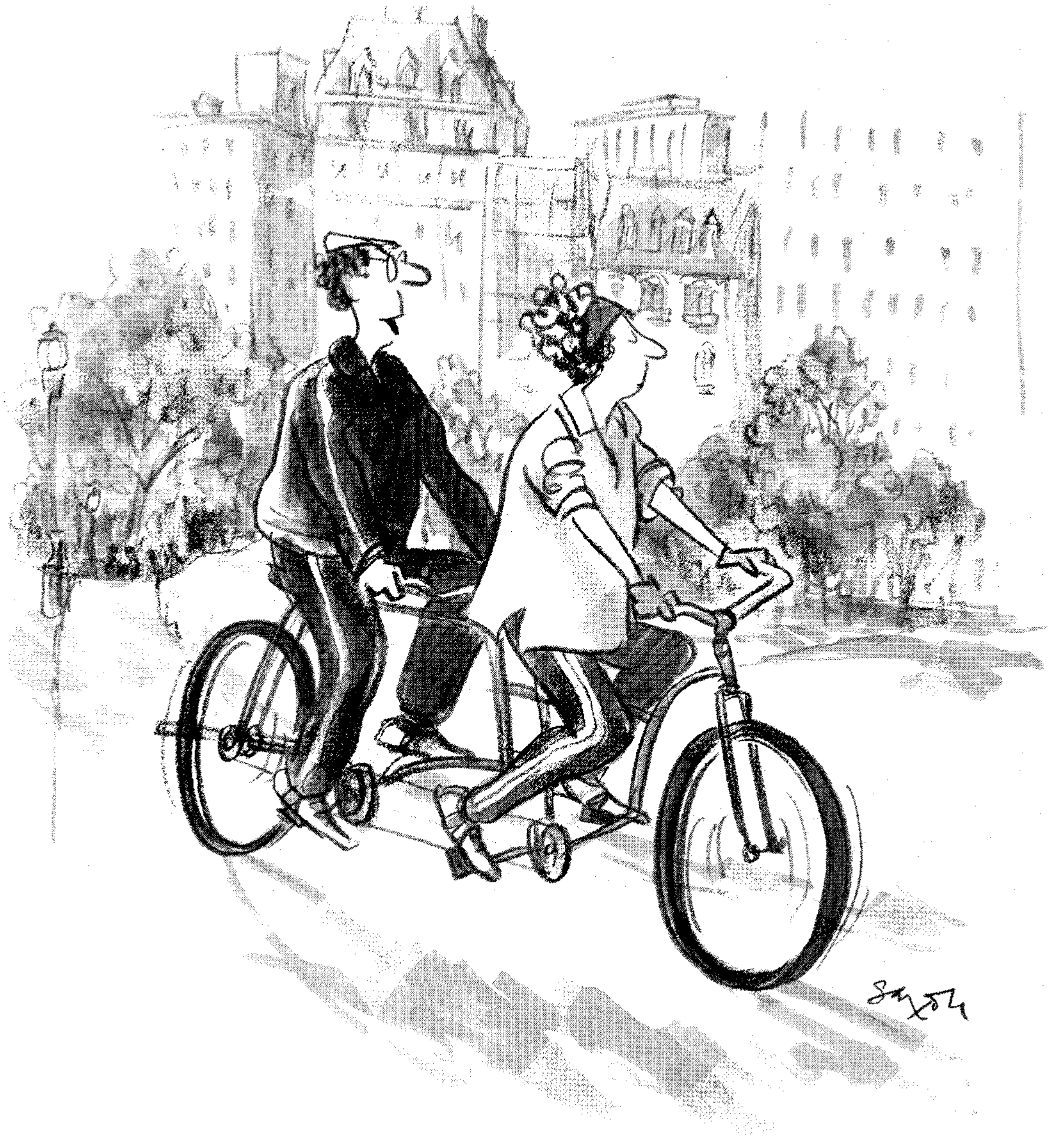
"I'm not sure," he whispers. "Somewhere around my backside."

"What's wrong?"

He opens his eyes, grins mischievously, and points a finger at me.

You have to hand it to him.

—DANIEL MENAKER



"You're the top, you're the Colosseum, you're the top, you're the Louvre Museum. You're the da-da-da, da-da-da-da-da in Spain. You're the da-dee-da-da, the da-dee-da-da, you're cellophane!"

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ANNALS OF LAW

TWO TRIALS—II

BETWEEN October 11, 1984, and February 19, 1985, and November 13, 1984, and January 24, 1985, two libel suits were tried, two floors apart, in the federal courthouse on Foley Square, in Manhattan, in the Southern District of New York. The first, in Room 318, the courtroom of Judge Pierre N. Leval, was Westmoreland v. CBS, et al. The second, in Room 110, the courtroom of Judge Abraham D. Sofaer, was Sharon v. *Time*. The Westmoreland suit was based on a ninety-minute documentary, "The Uncounted Enemy: A Vietnam Deception," which was broadcast on the night of January 23, 1982. The program, which consisted largely of interviews conducted by Mike Wallace, and which was produced within the CBS News department by George Crile, purported to describe, for the first time, certain events in 1967, which, according to the program's opening statement, reflected "a conspiracy, at the highest levels of American military intelligence"—specifically, within the command and upon the orders of General William C. Westmoreland—"to suppress and alter critical intelligence on the enemy," and to deceive the American people, Congress, the Joint Chiefs, and the President of the United States, about the strength, in numbers, of the North Vietnamese Army and the Vietcong. Among the results of the "conspiracy," according to the program's thesis, were a complete unpreparedness, in the White House and on the battlefield, for the size of the Tet offensive; an incalculable and unnecessary loss of American soldiers; and, by clear implication, the ultimate loss of the war. The Sharon suit was based on a cover story, "Verdict on the Massacre," in *Time's* issue of February 21, 1983, about the findings, in Israel, of the Kahan Commission, which, after four months, had just published its Final Report, concerning responsibility for the massacre of several hundred civilians in the Palestinian refugee camps at Sabra and Shatila, in Lebanon. Under a second title, "Cover Stories: The Verdict Is Guilty," *Time* ran a long article that contained the following paragraph:

> One section of the report, known as Appendix B, was not published at all, mainly for security reasons. That section contains the names of several intelligence agents referred to elsewhere in the report. TIME has learned that it also contains further details about Sharon's visit to the Gemayel family on the day after Bashir Gemayel's assassination. Sharon reportedly told the Gemayels that the Israeli army would be moving into West Beirut and that he expected the Christian forces to go into the Palestinian refugee camps. Sharon also reportedly discussed with the Gemayels the need for the Phalangists to take revenge for the assassination of Bashir, but the details of the conversation are not known.

Chief counsel for Westmoreland, who claimed he had *not* ordered any false ceilings on estimates of enemy troop strength, and thereby deceived, among other civilian and military superiors, his Commander-in-Chief, was Dan M. Burt, of the Capital Legal Foundation, a thirty-nine-year-old tax lawyer, who had never tried even a minor jury case before. Chief counsel for Sharon, who claimed he had *not* discussed "revenge" in any conversation with the Gemayels (or any other Phalangists), and that there was no mention of such a discussion in Appendix B, was Milton Gould, a fine, widely experienced attorney in his mid-seventies, and a founding partner in the large and highly regarded New York law firm Shea & Gould. (The Shea of the partnership is William Shea, after whom Shea Stadium is named.) Both CBS and *Time* were represented by partners in the same large, thorough, and aggressive New York law firm, Cravath, Swaine & Moore. Chief counsel for CBS was David Boies, a formidable litigator, and a veteran of Cravath's victories, on behalf of I.B.M., in several major anti-trust suits brought by private companies. Chief counsel for *Time* was Thomas D. Barr, another respected litigator and veteran of Cravath's victory, on behalf of I.B.M., against the anti-trust suit brought by the federal government.

Though Burt had raised, from various conservative backers, the money for the Westmoreland suit (rejecting, however, any contributions from people or organizations on the extreme, radical right); and though Gould had brought the Sharon suit at his own expense, neither plaintiff could match the enormous financial resources CBS and *Time* (represented by Cravath and backed by their insurance companies) brought to the litigation. On many evenings, Boies managed to hold small, informal press conferences; but CBS had hired as well an outside public-relations firm, which used five full-time employees for the duration of the case. In the months before trial, Burt had been at least as skillful as Boies in handling the press, particularly in the arguably improper battle of leaks to journalists before the trial began. From almost the moment of their opening statements, however, there were signs that, as a litigator, plaintiff's counsel, in Westmoreland, was seriously, even vastly, overmatched. "By the second day, he knew he was terrible," one of Burt's scant staff said of him. And Burt began, visibly and increasingly, to rely not on Judge Leval, or even on his own associates (who included only one highly experienced litigator, David Dorsen), but on opposing counsel, Boies, for appraisals of his own conduct of the case, and even for advice.

To prevail in the litigation, each plaintiff would have to meet the almost insurmountable burden of proof that was established in American law, for libel plaintiffs who are "public officials," by the strange and historic Supreme Court decision, in 1964, of New York *Times* v. Sullivan. In that case, the defendants were the *Times* and members of the Committee to Defend Martin Luther King, Jr.—relatively small, highly moral, and dissenting voices, within the solid, powerful, racist monolith that was

"Hey, the tide has turned!"

Alabama, one of whose officials was the plaintiff in the case. (The alleged libel involved a few mistakes in an ad for the committee in the *Times*.) That case, which was fair, timely, and rightly decided (for the defendants), and which favored, above all, dissent and diversity, in the context of the great moral movement that was civil rights, against oppression by monolithic power, was not, however, very cogently or carefully reasoned. Above all, it did not foresee that, in modern life, it is the press itself that has, to a degree, become unitary, powerful, and monolithic, suppressing the very diversity that it was the purpose of the First Amendment (and even of Sullivan) to protect. Since Sullivan, in any event, a public official must prove not only that the alleged libel was of and concerning him, that it was defamatory, and that it was, "clearly and convincingly" (or by a preponderance of the evidence; federal law on the question is unsettled), false but also that it was made, clearly and convincingly, with actual malice. Even the first three burdens on libel plaintiffs are by far the heaviest imposed by any judicial system in the world. In England, for example, as in every other Western European country, the burden falls on the publishing defendant to prove the truth of the alleged libel (rather than on the plaintiff to prove falsehood); and even the truth itself is sometimes held not to excuse but actually to aggravate a defamation. In this country, truth is an absolute defense.

But it is the fourth burden, actual malice, that has left problems that, after more than twenty years of litigation, are no more clearly articulated or resolved. To protect innocent mistakes (to protect, precisely, inadvertently false statements, like the ones in the ad in Sullivan), common law "actual malice" has been redefined, in recent law, to mean not what is conventionally understood by "malice" but "knowledge of falsity" of a defaming statement, or "reckless disregard" whether it is false or not; and "reckless disregard" whether a given statement is false has, in turn, been redefined to include "serious doubt" as to whether it is true. Apart from the obvious intellectual problems presented by this reformulation (which was first set forth by Justice Byron White in St. Amant v. Thompson), there have already been consequences of an ironical and entirely unintended sort. Publications, in order not to be vulnerable, in any future lawsuit, to the charge that they had *in fact*, at any point in the writing or the publishing of a story, a "serious doubt," are beginning actively to discourage responsible inquiry, checking, editorial queries in the margin, all of which would constitute evidence (before courts that interpret St. Amant too simplistically and literally) that whoever asked, checked, made those queries in the margin did have that form of "actual malice" which is "serious doubt." It is obvious that this interpretation encourages almost everything that is undesirable and unprofessional in journalism—and that it is the opposite of what Justice White intended, in the entirety of his opinion for the Court in St. Amant. But many courts and (upon the advice of lawyers) many publications are beginning to apply just this literal, even perverse, interpretation. And the foreseeable practical results in journalism make it virtually certain that the formulation "serious doubt," for "actual malice," will not long remain the law.

Sharon and Westmoreland came before the courts to establish an oddly journalistic proposition: that the paragraph and the ninety minutes were, clearly and convincingly, factually false. *Time* and CBS came not so much to prove their stories true (which, as a legal matter, they did not have to; it was the plaintiffs' burden to prove them false) as to vindicate what they seemed to believe was a principle of constitutional law: that any retreat from a story, as originally published, somehow diminishes the press protections of the First Amendment, and puts in jeopardy as well the little publications, unable to afford litigation on this major scale. Much, perhaps most, of both trials, which were widely covered in the press, nonetheless took place outside the hearing of the jury and was oddly unsuited to coverage, on a daily basis, by the press. In both cases, there were, as in all civil suits, the depositions, which, taken together, more or less present the entirety of the evidence before it ever comes to court. Depositions become part of the public record; but neither the press nor, of course, the jury has access, before the case is over, to the transcripts of the completed depositions. In Westmoreland, moreover, many hours on many days were spent, by Judge Leval and the attorneys, in bench conferences, at the sidebar, outside the hearing of the jury and the press. (Judge Sofaer, as a matter of principle, did not take bench conferences, and permitted only one, very brief one in the course of the entire trial.) There are many arguments against bench conferences: they waste the time of the witness, the courtroom, and the jury; they enable

Wm Hamilton

"Beautiful damn dream. I was back at Princeton. Only, Kippy, you weren't my roommate. Brooke Shields was my roommate."

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attorneys to try to curry favor with judges; they give the legally more adept attorney an opportunity not witnessed by the jury to maneuver. Nonetheless, they depend upon the circumstances and are a matter in the sole discretion of the judge. The transcripts of both trials also included conferences in the robing room, at which neither press nor jury is present. To a very slight degree in Sharon, and to a very high degree in Westmoreland, the transcript of what the jury did not hear, and of what the press on a daily basis did not cover, told a story very different from the story that seemed to unfold in open court.

The paragraph in *Time* (about the alleged discussion between Sharon and the Gemayels, on the eve of the massacres at Sabra and Shatila, of "the need . . . to take revenge," and about the alleged inclusion of the details of such a discussion in the Kahan Report's secret section, Appendix B) had originated, it emerged early in discovery, in a telex, two months earlier, by a *Time* correspondent not mentioned in the byline, David Halevy. On December 6, 1982, Halevy had filed, for inclusion in that week's Worldwide Memo (an internal newsletter of rumors, facts, and gossip circulated to all *Time's* journalists and bureaus), what is called at *Time* a Memo Item, which read:

> GREEN LIGHT FOR REVENGE?
>
> (HALEVY-JERUSALEM) The most crucial findings of the State Inquiry Commission investigating the Sabra and Shatila massacre might turn out to be the newly discovered notes which were taken during a conversation between Israel's Minister of Defense Arik Sharon and leaders of the Gemayel clan. Sharon came to the Gemayels' home village, Bikfaya, the morning after Bashir Gemayel was assassinated. He came actually to convey his and the Begin government's condolences. When Sharon landed at Bikfaya, he had with him only one senior intelligence officer, who went with Sharon to the meeting and took notes during the private session.
>
> According to a highly reliable source who told us about that meeting, present were not only Pierre and Amin Gemayel, but also Fadi Frem, the Phalange Chief of Staff who is married to Bashir's sister. Sharon indicated in advance to the Gemayels that the Israeli army was moving into West Beirut, and that he expected them, the Force Lebanese, to go into all the Palestinian refugee camps. He also gave them the feeling, after the Gemayels' questioning, that he understood their need to take revenge for the assassination of Bashir and assured them that the Israeli army would neither hinder them nor try to stop them.
>
> These minutes will not be published at all, in any form whatsoever, as they indicate a direct involvement and advanced planning by the Gemayel family, including Lebanon's president, Amin Gemayel.

Two months later, when Harry Kelly, *Time's* Jerusalem bureau chief, asked Halevy what might be contained in the report's secret section, Appendix B, Halevy replied that one thing it certainly contained was the information in his Memo Item of December 6, 1982. Kelly duly filed, in what became known as Take Nine of his telex, the story that became the paragraph on which Sharon brought suit.

In the Westmoreland case, the broadcast had originated in what is called at CBS a "blue sheet," a proposal for a program, which had been written by the broadcast's producer, George Crile. The blue sheet consisted of sixteen pages, typed, single-spaced, and mentioned the word "conspiracy" twenty-four times and the word "conspirator" five times. It was based almost entirely on the "research" of Samuel Adams, a former C.I.A. analyst, who, beginning in August of 1966, had concluded that enemy troop strength in Vietnam was not the two hundred and ninety-seven thousand estimated by the military but six hundred thousand; and who had become convinced, when his estimates were not accepted (either within the C.I.A. or by the military), that the truth had been willfully and deceitfully suppressed. The "conspiracy" that the program ultimately alleged consisted of deliberately underestimating enemy troop strength in two ways: by deleting from the Order of Battle civilians (noncombatants, grandmothers, children) who, irregularly and in no official capacity, supported enemy troops, and by reducing estimates of the rate of infiltration (in the five months preceding the Tet offensive) by regular North Vietnamese soldiers into South Vietnam.

At the end of the plaintiff's presentation, the case against the broadcast was still going very well—with witnesses above Westmoreland testifying that all positions in the controversy about estimates had been presented both to the President and to the Joint

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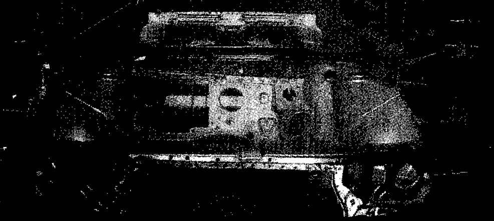
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THE GM ODYSSEY: SCIENCE NOT FICTION

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1. AUTOMOTIVE DIMENSIONAL CHECKER. Probing car bodies to assure solid, tight-fitting assemblies are one hundred and twenty-two lasers and cameras.
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4. INSTRUMENT PANEL. Touch-sensitive cathode-ray tube with multiple functions that include diagnosing service problems in seconds.
5. MULTIMATCH. Machine vision system used in various quality-control procedures that increase manufacturing quality and productivity.
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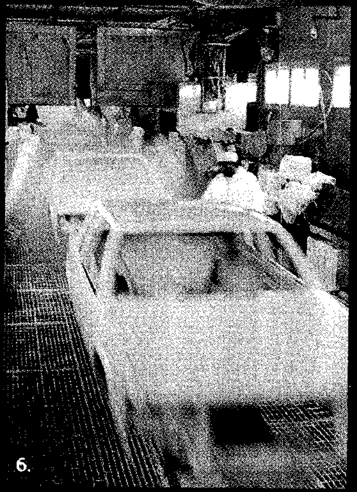
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Chiefs, and witnesses below him testifying that no estimates had been, on his orders, altered or suppressed. There had also been strong evidence of a lack of professionalism, and even outright dishonesty, in the production of the program, ranging from trivial violations of CBS network guidelines to misrepresentations of the most serious kind. Nonetheless, on February 17, 1985, General Westmoreland signed, with the CBS defendants, a "Joint Statement," which announced the "discontinuance" of the lawsuit, and in which CBS made no concessions of any kind. Chief counsel Burt, who had recommended the settlement to General Westmoreland (which came at the worst time, namely at the height, and nearly at the end, of the defense's presentation of its case), never even troubled to inform his staff or his associate counsel of the "discontinuance;" all of them were still working on the next day's strategy in the litigation when they heard about the settlement of the case.

The lore had it that Westmoreland had agreed to the Joint Statement and the "discontinuance" because he was so daunted by the testimony of two former intelligence officers, one a fellow-graduate of West Point, that he abandoned what he had come to realize was a hopeless case. But the cross-examination of both witnesses, General Joseph McChristian (who had been chief of military intelligence in Vietnam from July, 1965, to June, 1967) and Colonel Gains Hawkins (who had been Order of Battle chief, from February, 1966, to September, 1967), was conducted not by Westmoreland's chief counsel Burt but by David Dorsen. McChristian had appeared neither on direct nor on cross-examination to be a particularly impressive witness; he had been preoccupied with intelligence-related jargon, and had seemed particularly riveted, in his answers to even the simplest questions, by the word "context." Hawkins, while a rather likable and affable figure, had not been impressive as a witness, on direct examination, either, mainly because, prolix as he was, his memory appeared, on every salient point, to fail him. At the end of Boies' direct examination, however, there had been (in one of the few moments in the whole trial when Judge Leval was not entirely alert) the following colloquy:

Mr. Boies: May I have just a moment, your Honor?

The Court: Yes.

Q. Colonel Hawkins, you have made some serious charges today, about yourself and about others?

A. Yes, sir.

Q. I want to ask you whether you are absolutely certain that those charges are true?

Mr. Dorsen: Objection, your Honor.

The Court: Overruled.

A. Yes. I feel certain about the charges—

Q. Do you have any animus or ill will toward General Westmoreland?

A. No, sir, none whatsoever.

Q. Do you have any animus or ill will to the United States Army?

A. No, sir. *I carried out these orders as a loyal officer in the United States Army.*

This time, Dorsen's objection was sustained, and the answer was stricken; but there is no news value in a sustained objection, and the last question and its answer had their intended effect: they had been crafted for, and were duly featured in, the next day's press.

The following day, February 13, 1985, in effect the last day of the trial, began, in Judge Leval's robing room, with a conference between the judge and the attorneys:

The Court: Yes, Mr. Dorsen. You asked for a conference before trial?

Mr. Dorsen: That's correct, your Honor. I am here to object and move to

Here's to
more,
more,
more
gin taste.
GILBEY'S
DISTILLED LONDON DRY
GIN

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strike certain things, and in general I want to express my objection to the whole manner in which the examination was conducted.... then saying was the briefing accepted or not accepted, [and making] a statement that incorporated the use of the word "orders," which I think was totally inappropriate.

The Court: Fill me in. What was that? Remind me.

Mr. Dorsen [after reading yesterday's exchange, right through Hawkins' last line and Boies' "I have no more questions, your Honor"]: And, not insignificantly perhaps... that is the last question and answer quoted in the New York *Times* today, without reference to the fact that the objection was sustained and the matter stricken.

The Court: I am sorry.

Mr. Dorsen: The last question and answer, using the word "orders," appeared at the conclusion of the story in the New York *Times* today, without any indication that the answer was stricken, and I think that is potentially prejudicial, your Honor. [Some colloquy concerning objections to Hawkins' earlier testimony.] I moved to strike it and, as the record will reflect, Mr. Boies overruled my objection, but I don't think your Honor passed on it. Mr. Boies said it was too late, and I do not believe it was too late. [More colloquy] I do not know what the court would be prepared to say on that subject, because it is highly prejudicial, coming at the end, for him suddenly to inject the word "orders" ... immediately following a question and answer concerning Westmoreland. I just think that's terribly prejudicial.

And it's not as though this witness' position and familiarity with the evidence is unknown to counsel. I think the record will show... that this witness has been prepared to an incredible extent, including something like ten trips by Mr. Adams or Mr. Adams' attorneys to West Point, Mississippi, lasting two days or longer.... I think that it would be hard to conclude that adequate precautions could not have been taken.

I also note for the record that the witness, I believe, was starting to tell a story that I specifically brought to Mr. Boies' and the court's attention, about a certain lady who had a problem, which Mr. Boies said "Well, it won't come up on direct" and I believe it was about to come up when the court cut Colonel Hawkins off.

Also, your Honor, based on the current state of the record, I do not believe that there is a foundation for Colonel Hawkins testifying to a command position....

I am also concerned that it's potentially prejudicial, on the other hand, if the testimony is stricken. I am going to be in the difficult spot of perhaps having it elicited again.

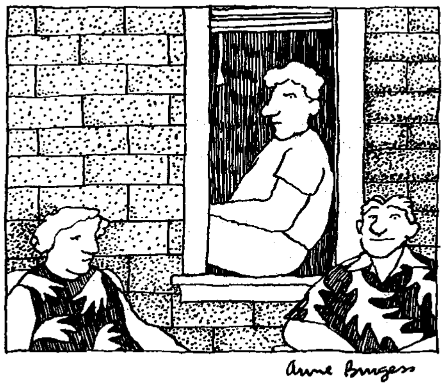
Boies argued very strongly against all of these objections, and, in what should have been a very telling intimation of the highly unusual bond that was developing between him and Westmoreland's chief counsel, protested as well that Dorsen "declined to advise me, prior to this conference, as to what he was even going to raise, something that *even Mr. Burt* found unusual when I brought that to his attention this morning." It is distinctly odd for chief counsel of one party to take to chief counsel for the other his complaints about the current conduct of the case, unless the complaints concern a very young and inexperienced associate, whom chief counsel might then set to rights. It is odder still for chief counsel for one party to quote to the judge, in the presence of associate counsel of the other, some view that associate counsel's own chief colleague allegedly holds about associate counsel's current conduct of the case. Boies, however, continued:

I think that what Mr. Dorsen is plainly attempting to do is he is attempting to confuse the jury about an examination that he obviously finds, and I think properly finds, very harmful to his case, but he is attempting to do that in a way that simply is not permitted. To, at the beginning of the cross-examination, instruct the jury to disregard or to limit portions of the direct examination that were given the previous days seems to me to be highly prejudicial and very inappropriate.

Both sides have from time to time been confronted with testimony that they didn't like that was stricken. The court will recall Mr. Carver [George Carver, of the C.I.A.] bursting out with "It's a lie," which I might note was also totally reported in the New York *Times*, even though it was stricken. There have been a number of other outbursts, including outbursts by the plaintiff that were stricken and duly reported in the New York *Times*.

These were extremely important issues for Judge Leval, at this point, to resolve. (Hawkins' answer had been, in any event, in no sense an "outburst.") He agreed with Boies that to give the jury limiting instructions, for the striking of testimony, just after direct examination and just before cross-examination, might be procedurally incorrect. On all other matters, he seemed to agree with, and to intend at the close of Hawkins' testimony to rule for, Dorsen.

The Court: I also agree with Mr. Dorsen, and I said something to this effect yesterday at a sidebar conference, that I did not understand for the life of me the manner in which the examination, the direct examination of Hawkins, was conducted, to elicit... his conclusions first and afterwards proceed to lay the foundations that might or might not be capable of supporting the conclusions that he had expressed.



It was done in that fashion on two or three subjects, as I say. On the instructions that he gave to his subordinates, what he said to the subordinates was given first... The same thing was true of "command position."

I was wondering after court why on earth you proceeded in that fashion, Mr. Boies. I was wondering whether you were concerned about his *ability to remember.* I haven't read these depositions. You say to me that in his deposition he has gone through five and six and ten times and is capable of testifying again and again to all the foundation stones that are necessary for the conclusions he expressed....

I was wondering whether you proceeded in that fashion because you were worried that his memory might be so spotty, or might go in and out, so that you wouldn't get the answers that you needed. I did find it a confusing examination. I found it confusing possibly to the plaintiff's prejudice.

[Discussion off the record]

I had the insecure sense towards the end of the examination that probably the necessary foundation stones had been laid after the vault had been hanging up there in the air for quite some time unsupported....

I don't think that a briefing is a place at which figures are accepted or not accepted. *That's not the function* of a briefing. And I don't think from what I have heard that the figures were either accepted or not accepted at the briefing. What happened was that the figures were briefed and... Mr. Komer said a Komer-like thing about something to do with Byzantine... So the figures were perhaps not accepted, but they were not not accepted, either.

I don't think that Hawkins, furthermore, is *qualified to say* whether General Westmoreland or General Davidson [General Phillip Davidson, who succeeded McChristian as chief of intelligence in Westmoreland's command] or anybody else... at that briefing reacted in agreement or in disagreement with the figures that had been briefed.... So I think that the instructions Mr. Dorsen is asking for are proper instructions.... I would guess that Mr. Dorsen, on his cross-examination, is going to... try to bring out the fact that Hawkins was never told by General Westmoreland that there was any command position....

Now, maybe at the end of the cross-examination, I should make the rulings that are requested, or at or during the redirect or something.

For the outcome of the case, or, at least, for the reception of Hawkins' testimony, the words of the judge in this robing-room conference should have marked a critical juncture. Virtually all of Hawkins' evidence, such as it was (about the two briefings of

Westmoreland, about the existence of a command position), would, in all probability, have been stricken at the end of Hawkins' testimony, in rulings—which, of course, because of the Joint Statement and the "discontinuance" of the lawsuit, never came.

The robing-room conference went on for some time longer. After Boies made some arguments (prefaced by "The Court: I think that this— Mr. Boies: Your Honor, I don't mean to interrupt the court. Before this is through there are some things I would like to respond to, on the record"), the judge went further:

> THE COURT: Part of Mr. Dorsen's objection was that by eliciting the conclusion first you had put him in the position unfairly of having to object and then invite, as a response of his objection, a pounding, calling attention, in a particularly dramatic way, to the laying of the foundation after the conclusion . . . It's not a matter of *amount* of foundation. . . . Nowhere in his testimony had he said anything to the effect that he received an order with a suggestion that it was a command position that 300,000 was the limit.

As for Hawkins' single answer, arrived at with such difficulty the day before, regarding a conversation with General George Godding (Hawkins' immediate superior in military intelligence):

> If you ask about a conversation with anybody, that includes locker-room scuttlebutt as to whether there's a command position. It's not the same thing as a conversation which from the commander gives an order that can be construed as a command position.

The main point about this pivotal robing-room conference was that, while bench conferences and robing-room conferences (like sustained objections) are somehow rarely covered even in the legal press, and not at all in conventional journalistic publications, the plaintiff himself and, more particularly, his attorneys had every reason to know (as the press, seeing only what Judge Leval characterized as "calling attention, in a particularly dramatic way," to testimony that might subsequently be stricken, did not) how this supposedly most daunting witness's testimony was going at the height of the defendants' case. And that was not very well.

Soon after Dorsen began his cross-examination, the courtroom was reminded of just what sort of, in some ways, inimitable witness Hawkins was.

> Q. Colonel Hawkins, isn't it your belief that the Communists, in connection with the Vietnam War . . . were great liars and that they liked to brag?
>
> A. I think that the Communists were just like Democrats and Republicans in that way, that they all do some lying now and then and you find some once in a while that will tell you the truth. I am a chairman of the executive committee—
>
> THE COURT: I think you're going—
>
> THE WITNESS: Excuse me, sir.
>
> A. I think that in some instances they are great liars and that they like to brag, just like other people. But I will *caveat* that, sir. . . . I'd say most of the documents that we saw seemed to me to be authentic.

Several questions later:

> A. They weren't forgeries and they reflected accurately—you had to put— Mr. Dorsen, as an intelligence analyst, you had to put all of this stuff together. You have to collate it, as we say, take your bits and pieces and compare them. . . . That's why we had to confirm the probable and the possible, and that's why intelligence gets into these areas, because you don't have the information that an auditor has when he makes up your tax return, except, you know, for a little lying, cheating here and there. I mean, it's intelligence. That's why it's intelligence, sir. . . . There is judgment and integrity involved, sir.

In the next question, Dorsen inquired whether the witness had "ever described" one of his intelligence categories as "equivalent to a guess."

> A. I don't remember having ever made that statement. It's possible that I could have used somewhat loosely the term, yes. It would depend upon the circumstances.

It turned out that Hawkins had at some time started, and was perhaps still working on ("Yes, sir, I am writing about it"), a book, "The Enemy Order of Battle in the Republic of Vietnam, 1966-67."

> Q. And did you state that if it's "possible," we're just guessing?
>
> A. Yes, I had that written in in longhand at the top—if it's "probable" we are almost certain, and if "possible" we're just guessing.

Hawkins had embarked, perhaps with the understandable defensiveness of witnesses on cross-examinations, on some of the arcana of "the Order of Battle shop" in American intelligence ("the criteria that we would use, the methodology that we would use . . . It gets to be a pretty much involved thing, Mr. Dorsen"), interspersed with small, almost comically appalling indications of what the quality of the American intelligence bureaucracy in the Vietnam years really was:

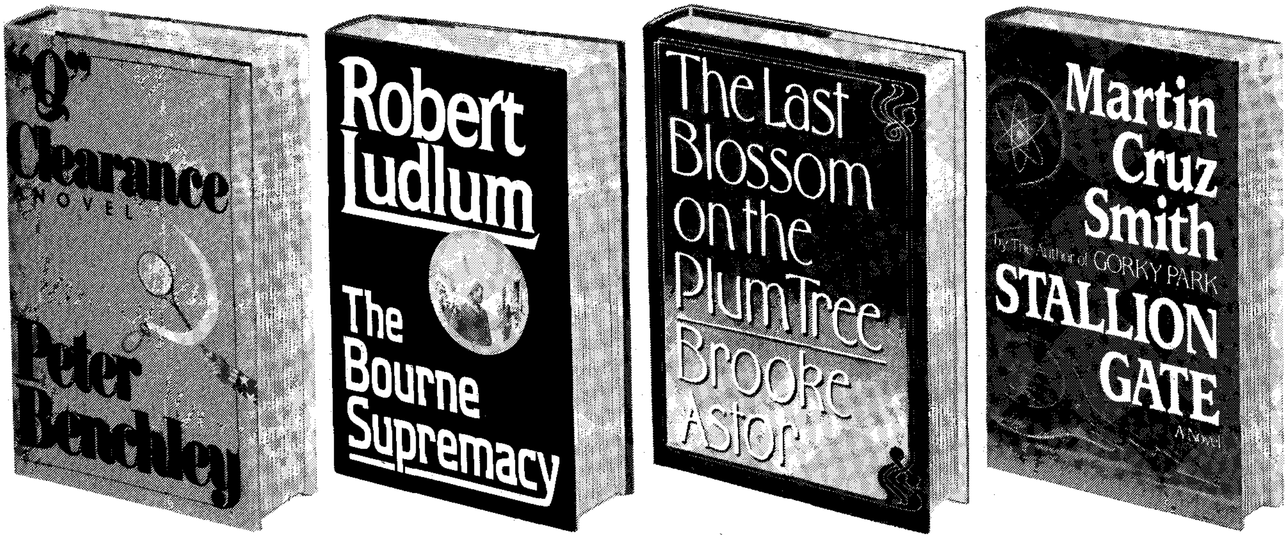
MARKET
M. IAN

> Q. What was the function of Collections Division?
>
> A. Simply put, the Collections Division receives the requirements from the Production Division and goes out to collect the information that is needed to draw up plans, and so forth and so forth.

Having elicited, almost by the way, an admission that Order of Battle analysts "would not rely on body counts" for estimates of "the size of enemy losses in Vietnam in 1967" (the admission was important only because Adams had said, and Boies had argued in his opening statement, that an element of the "conspiracy" was to measure enemy losses by counts of bodies that might or might not have been enemy, and that there should have been, according to those body counts and unless estimates of enemy troop strength had been deliberately and deceitfully reduced, no enemy left), Dorsen proceeded to lay for Hawkins the small, courteous trap he had used for McChristian: Would Hawkins' analysts not forward their most accurate estimates to American soldiers in the field?

> A. Yes . . . this was the reason that these reports were compiled. They were not compiled just to put in a library . . . but for subordinate units in the field . . . I had myself on visits into the boondocks conversations with various analysts. . . . Yes, it's a sharing of information at all echelons. Otherwise, intelligence does not have its full impact throughout the arena.

Here, with a kind of proud, affable prolixity, Hawkins made (as had Adams and McChristian) what amounted, in the circumstances of the case, to a key admission: that their own best information went to American fighting troops. But, once again, since the information received by troops in the field was, on the basis of documents, inescapably and demonstrably the same as the information forwarded to the White House and the Pentagon, there can have been no "conspiracy," for there was simply no deceit. There was always, of course, the possibility that these witnesses were being less than honest in their accounts of having conveyed informa-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tion to the troops; but a witness who said he had *withheld* his best estimates from those people at greatest risk of death in Vietnam would have appeared a kind of monster, and not a credible witness in the case.

Having made with yet another witness that key point, to be reserved for that summation to the jury which, in the event, was never made, Dorsen went on in an almost elaborately harmless way:

> Q. I would like to change the subject slightly, Colonel Hawkins. Am I correct that an Order of Battle for guerrillas was a new experience for the Army in 1966?
>
> A. As far as I know, guerrillas was a new experience for the Army in 1966 and 19—yes, in 1966.
>
> Q. You say you are unaware of any prior effort to incorporate guerrillas into an Order of Battle?

Judge Leval asked Dorsen whether his questions were confined to the experience of the American Army:

> Mr. Dorsen: Thank you, your Honor.
>
> Q. Colonel Hawkins, is it your testimony, and correct me if I'm wrong, that as far as you recall, preparing an enemy Order of Battle for guerrillas was a new experience for the U.S. Army in 1966?

And Hawkins, not yet seeing where this line of questioning would take him, answered "Yes," before babbling happily on about another defense witness, "Mr. George Allen, whom we analysts regard as the granddaddy of Vietnamese Communist Order of Battle," while the point was made, less through the answers than through the questions: that the Vietnam War was the first war in which the American Army prepared an Order of Battle for guerrillas; and that there should be a controversy concerning whom to count, and whether and how to count them, followed naturally from the fact that American military intelligence had never counted them or included them in an Order of Battle before. Soon the witness began to lose his way almost entirely, and to testify as though he were not just a witness for the defense but a defendant in the case.

> Q. On the hamlet level, is it the case that the guerrilla, the hamlet guerrillas, were part time, as you understood it?
>
> A. No, sir. No, sir. . . . I'd have to consult my Order of Battle summary, but I thought most of the guerrillas were pretty well part time, sort of loose organization. They could have been full time—well, it's hard to say. When you're talking about full time or part time, they are there to do the job . . . and you get into this business about full time and part time. Sometimes it gets things kind of screwed up.

This sort of answer was, of course, both unintelligible and internally inconsistent; and the reason appeared to be that the witness could not figure out which answer would be best for his own party in the case.

> I think, being a country boy, you know, I'm from the country, I am bred in the country. . . . I mean, the idea was to take all of this information and amalgamate it, to put it all together, but I would— General McChristian's philosophy, which I supported . . . There was at least some degree of patterns. This is what always helps an analyst. I mean, if an Order of Battle analyst could find a structure . . . if he could find a pattern, he's going to keep it, because he's going to find out what you are. . . .
>
> The Court: Colonel Hawkins, I think you are getting a little too close to the microphone, and it reverberates.
>
> The Witness: I'm sorry. I was too far away before.
>
> A. Again, sir, I think you would—I would have to classify the hamlet guerrillas . . . I wouldn't buy that until I went back and saw what that was, because I don't remember—we had it figured out at the time, and I would have to go back and refind that mission. The books are there. It's spelled out very clearly in our Order of Battle summaries, just what our—just exactly how we described these things, and . . . I don't think I could repeat word for word from memory at this time, in 1984 [the date was actually February 13, 1985], just precisely how we did it. It's there. It's there in the books.
>
> Q. Didn't you give the answer to that question in your deposition, Colonel Hawkins?
>
> A. Probably off the top of my head and probably unprofessionally and probably made a few errors . . . in my deposition, in describing it.
>
> Q. Could you turn to page 302 of your deposition, Colonel Hawkins?

In answer to yet another yes-or-no question, Hawkins began to read aloud.

> Mr. Dorsen: Your Honor, I move to strike the answer. I was directing the witness' attention to line 10.
>
> A. Oh, all right.
>
> Q. I will come to self-defense forces later.
>
> The Court: The jury will disregard the answer.
>
> A. All right.

With this "Oh, all right" and "All right," the previously convivial witness was beginning to appear recalcitrant, and even sullen: "I will have to compare that statement [in my deposition] with what is actually stated in the . . . Order of Battle . . . to determine whether I was making an accurate statement or not."

Judith Shahn

> A. Double hatting was when you had a political personality who also occupied a military position. . . . This is Communist practice, Communist philosophy, sir, with Vietnam, Russia and anywhere else.
>
> Q. Colonel Hawkins, wasn't there a problem double counting people?
>
> A. Yes, it was a problem. But I think we spent a whole lot more time on it than we should have spent. *I think the figures are insignificant. It is the principle*, the principle . . . The infrastructure is not normally a word which is used on the sidewalk, or used at the family dinner table. . . . It was—an infrastructure is a sort of a euphemism.

The "figures," then, part of the very "estimates" that underlay the broadcast and the case, were, according to Hawkins, *anyway* "insignificant." And, with another mild opening ("Q. Colonel Hawkins, I would like to change the subject . . . A. Yes"), Dorsen asked another apparently harmless question: Didn't Hawkins believe that military intelligence in Vietnam was "closer to the problem of estimating enemy strength than was the C.I.A."? And the witness replied rather proudly, if ramblingly ("They had some smart analysts there [at the other agencies], but they just did not have the manpower. It took a tremendous amount of manpower to do the whole schmear"), in the affirmative. Then a surprising question. Hadn't Hawkins urged McChristian to "stonewall" the C.I.A., in preserving military intelligence's own turf concerning estimates? "I don't—I did not —I don't think I regarded it as stonewalling," the witness said, and started mixing up the names of McChristian and Westmoreland again: "I urged General McChristian, 'Let's don't cave in. Let's hold off. Let's stand fast and let's do our own studies.' What words I used at that time, but this is the meaning that I think I was trying to give to General Westmoreland [sic], and I believe this is what he understood it to be." So, again, the phenomenon of bureaucratic turf, this time between military and civilian intelligence, made its appearance in the case. And Hawkins went on:

> A. I thought we should take whatever time was necessary to do the job right. And the war was slow, Mr. Dorsen. The war moved at a glacial pace. No matter how we tried to speed it up, it was a sort of

glacial pace there, and there was so many—let me tell you this, Mr. Dorsen. In 1966 and 1967 there was so many—every journalist, every politician, every military bureaucrat, every civilian bureaucrat who came to Saigon, who was concerned in Washington with the problem, had what was called a gut feeling about the—

The Court: I think you've gone beyond the question.

The Witness: Excuse me, sir.

Q. Let's get back to the term "stonewall." Haven't you used the term "stonewall" to describe what you urged General McChristian to do in either late 1966 or late 1967?

A. It is possible. If you have a document there that says I used the word "stonewall," I'm sure I used the word "stonewall."

Q. Could you turn to page 74 of your deposition, Colonel Hawkins? . . .

[Pause]

A. I have read the entire page, and I am proud of what I said here.

Q. Would you characterize what you were urging General McChristian to do [as] in effect stonewall the C.I.A.?

A. You are stating one word there, sir, and it does not state the entire context of the page.

With the word "context," the witness was, of course, back in the special world of his mentor, the preceding witness, McChristian.

Soon the witness was testifying about visitors to Saigon, coming from the United States, journalists and others, "expressing views on the size of the enemy":

> They were—yes, the size of the enemy, the intentions of the enemy, what he was going to do, what I refer to as gut feelings, which were based, upon my estimation, from stomach gas and nothing else.

Then Dorsen, over heavy objections from Boies, was reading from a letter, dated May 4, 1967, from the witness to his wife: "Looks like it may *break open this year*. Can't see that the VC and the [North Vietnamese] *can take many more big losses*." And, of course, the accuracy of Hawkins' memory concerning his estimates, in 1967, of enemy troop strength and capacity to prevail was called immediately and radically into doubt. If his contemporaneous account to his own wife reflected his belief that the war was about to "break open" because of the enemy's inability to sustain "more big losses," his recollection, almost twenty years later, that estimates of an *increased* enemy were being, with his knowledge and coöperation, suppressed could hardly stand.

Q. While you were in Vietnam . . . did you brief the visitors on the higher . . . estimates?

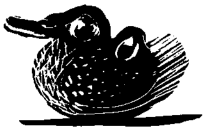
A. I don't recall briefing visitors on the higher . . . estimates. . . . The only briefings that I recall giving myself were the two briefings . . . given to General Westmoreland, on the 28th of May, I believe we established, and on June 14th. I briefed a Mr. Stewart Alsop, who was a reporter, now dead, at one time, but it had nothing to do with this estimate.

Q. A minute ago, Colonel Hawkins—

The Court: Just a second. When you speak low you're not close enough to the mike, and when you speak loud you're a little too close.

The reason for this now grating inability of the witness to adjust his voice to the microphone appeared to be that he was no longer able, as he had been on direct examination, to bask in his new public persona (reflected in the previous day's press coverage) on the stand.

Suddenly, Dorsen asked the witness whether he had participated in the drafting of the cable, in mid-May, 1967, which McChristian had proposed that Westmoreland send (with increased estimates of irregular enemy troop strength) to Washington. "I have no recollection of that cable, sir. There were so many cables that I was involved in preparing, during the eighteen months over there, I can't pick out from my mind and say that I have a recollection of this particular cable." Busy as he may have been preparing "so many cables" during his eighteen months in Vietnam, it seemed unlikely that the witness would have forgotten a cable of such apparent importance to the broadcast, to McChristian, and to the defendants' position in the case. What had begun to be called into question, besides the witness's memory and qualifications to testify, was, finally, his veracity:



Q. And you have no recollection as to whether on May 19, 1967, you participated in the drafting of a letter to Admiral Sharp [Ulysses S. Grant Sharp, Westmoreland's immediate superior in the Pacific] on the subject of revised enemy strength figures?

A. No, sir. I have no recollection of that.

Q. Colonel Hawkins, you testified about a briefing on May 28, 1967. Do you recall that testimony?

A. Yes, sir.

Q. And wasn't there a briefing about ten days earlier given to Admiral Sharp?

A. I do not recall such—participating in such a briefing, sir. . . .

Q. Colonel Hawkins, I would like to step back a second and ask you whether, prior to May 19, 1967, the preceding few days, you learned that Admiral Sharp was going to visit [Saigon].

A. I may have known about such a visit. I think perhaps it's reflected in a letter that I wrote to my wife. . . .

Q. By coincidence, it's Exhibit 213F, Colonel Hawkins.

A. Yes, sir. We are both familiar with my letters, Mr. Dorsen. My wife probably doesn't remember as much.

Q. Could you look at Exhibit 213F, Colonel Hawkins? Does that refresh your recollection as to whether you understood on or about May 17, 1967, that Admiral Sharp was going to visit [military] intelligence?

A. This is very interesting, sir. I don't remember reading this right recently, but it clears up some of your questions, sir, you have been asking me.

Q. We did give you your letters back, didn't we, Colonel Hawkins?

A. Yes, sir. I have the entire packet. If you had not sent them back you would have heard from my wife.

Q. Colonel Hawkins—

A. They weren't gems.

The Court: Let's get to the next question.

Like the war, like the trial, the pace of the disintegration of a witness's veracity is glacial, and then suddenly precipitate. Hawkins had admitted, for example, during his deposition, that at the time of the Ellsberg trial he had become "antagonistic" toward Sam Adams, because Adams "sort of led me to believe that he mistrusted General McChristian, and that turned me off cold;" more significantly, that when he was to appear as a witness in the Ellsberg case "I was ready to commit perjury," because "I despised that Ellsberg fellow." ("Q. Did you lie to the prosecutor or to the agents who came and saw you? A. Yes, sir. I don't know how starkly lying it would be. I guess, when you came right down to it, identify it, I lied about what happened in Vietnam.") But Hawkins would have been well prepared by counsel, perhaps even eager, for questions about the Ellsberg matter. Dorsen simply reserved it for the moment and went on:

Q. Colonel Hawkins, does Exhibit 213F refresh your recollection that, on or about May 17, 1967, a visit by Admiral Sharp . . . was anticipated?

A. Yes, sir. That is indicated in this letter. . . .

Q. I am asking you whether it refreshes your recollection as to whether or not you did participate in any briefing or preparation for a briefing?

A. No, sir, it does not. It simply refreshes my recollection that Admiral Sharp was due in Saigon. . . .

Q. Do you recall now whether you discussed Admiral Sharp's visit with anybody, on or about May 17, 1967?

A. I don't recall it, sir.

Q. Do you recall whether or not you discussed it with General McChristian?

A. I don't recall it, sir, at this time. . . .

Q. Under procedures in effect in May,

1967, how would you have learned of Admiral Sharp's visit?

A. I could have learned about it in many different ways. I could have passed an officer in the hallway, and he could have said "Admiral Sharp is here in town."...

Q. Do you recall any discussion with General McChristian on the subject of the visit by Admiral Sharp?

A. No, sir. I do not recall that. I wish this paragraph could be read, but this is not my turf....

Q. [reading] "Admiral Sharp is due in next week. General McC"—that's General McChristian, Colonel Hawkins?

A. That's correct.

Q. —"doesn't have to brief him. Think General McC is stacking arms anyway."... *How would you have learned,* Colonel Hawkins, as to whether or not General McChristian would have had to have briefed Admiral Sharp?

A. I stated here, sir, "I think General McChristian"—wait a minute. "General McChristian doesn't have to brief him." I don't remember how I would have found that out, sir. [Faltering blather.] I have no reason—I have no information upon which to base the statement that I made when I wrote this letter. I would have known then, but I don't remember this in 1984 [sic]. It's just a statement.

Since there were no conventional villains in these cases, the courtroom took no pleasure in the declining credibility of a once affable and disarming witness; and the demeanor of this witness was somehow turning simultaneously tentative and mulish. Dorsen asked him whether yet another document "refreshed" his recollection of the briefing of Admiral Sharp—which, it was now clear, he had in fact discussed with McChristian.

A. No, sir. It does not. The only briefing I know about is the briefing or briefings that I gave to General Westmoreland, on the 28th of May, as corroborated in letters to my wife, and on the 14th of June, as corroborated in letters to my wife. And the reason I recall these was because it was a sort of *traumatic experience.* I gave many other briefings, but I had no reason, I guess, to remember those.

The once jovial, folksy personage was using the language now of trauma, although why either of his briefings of Westmoreland (to the extent he could recall them) should have been traumatic was not clear.

Q. You have no recollection of a briefing on or about May 19, 1967, to Admiral Sharp?

A. No, sir. I have no recollection that I pesented a briefing to Admiral Sharp on May 19th.

Also:

Q. Do you have any recollection of *hearing about* such a briefing, Colonel Hawkins, of Admiral Sharp or any other people, on or about May 19, 1967?

A. *I may or may not have for one of various reasons.* I do not recall the briefing, sir. I have answered that *over and over and over again, sir.*

MR. DORSEN: Your Honor, would this be a convenient time for the break?

THE COURT: All right. We will adjourn for lunch. We will resume at quarter to three.

THAT afternoon, however, under a special arrangement in Westmoreland, whereby no elderly or infirm witness would be required to testify for more than four hours in succession, Hawkins' cross-examination was interrupted. The morning it would have been resumed, the next court calendar day (February 19, 1985), was the Tuesday morning of the Joint Statement and the "discontinuance." The Ellsberg matter was thus never raised in open court. The testimony Dorsen had objected to was never stricken. Certain other unequivocal testimony, from Hawkins' deposition ("Q. Is it clear to you that there was no order for you to do anything, as that term is understood in the military? A. There was no order, no"), was never brought out. And, with his small, confused, equivocal tirade ("I may or may not have;" "I do not recall;" "I have answered that over and over and over again, sir"), the second of the two fabled military witnesses, who were supposed so to have daunted Westmoreland, left his hours of celebrity and the witness stand.

THE witnesses, military and civilian, from the intelligence communities (and there were others, both for the defense and for the plaintiff, besides the fabled two), had their odd, major role in Westmoreland; but the most remarkable witnesses, in both Sharon v. *Time* and Westmoreland v. CBS, were undoubtedly the members of the press. As early as the first depositions in Sharon, it was evident that witnesses with a claim to any sort of journalistic affiliation considered themselves a class apart, by turns lofty, combative, sullen, lame, condescending, speciously pedantic, but, above all, socially and, as it were, Constitutionally arrogant, in a surprisingly unintelligent and uneducated way. Who *are* these people? is a question that would occur almost constantly to anyone upon reading or hearing the style and substance of their testimony. And why do they consider themselves entirely above the rules? These people were, to begin with, professionals, accustomed to speak with finality, never questioned except by their bosses; otherwise (in a field that, unlike, for example, true scholarship, suppresses second thoughts and confirming, or contradictory, inquiry) accustomed, in what they said or wrote, to being believed. In addition, these people had, in recent years, the power and glamour of the byline, and the contemporary notion of journalists as, in effect, celebrities bearing facts. What they were intellectually was in some ways surprising: better educated than their predecessors, they were not remarkable for their capacity to reason, or for their sense of language and of the meaning of even ordinary words. Nonetheless, they appeared before the courts not like any ordinary citizens but as though they had condescended to appear there, with their own conception of truth, of legal standards, and of what were to be the rules. As for "serious doubt," it seemed, at times, unlikely that any of these people had ever entertained one (another indication that "serious doubt" cannot long continue as a form of "actual malice" in the law). What was true and false also seemed, at times, a matter of almost complete indifference to them. Above all, the journalists, as witnesses, looked like people whose mind it had never crossed to be ashamed.

The only rule that they did seem unequivocally to accept they used either to hide behind or to inflate their own importance. The shield law, for "confidential sources," was invoked in Sharon with such frequency and in such a preposterous variety of circumstances (when the source had already been named, several times and on the record; when the source was already, for other reasons, public; when the witness clearly had no notion who or what the source was; when the issue was not who the source was but what he said; when nothing that was said was "confidential;" when there was no "source") that it sometimes seemed that the witness, using, in fact, the same locution, "I decline to answer on the ground that," had no better claim to be protecting by this means the small, worthy publications and the First Amendment than a rich racketeer who would claim, by invoking the privilege against self-incrimination, to be protecting worthy, poor defendants and the Fifth.

Of all the witnesses in both cases, Halevy, Kelly, Richard Duncan (*Time's* chief of correspondents), and Crile seemed to represent, in their various capacities, the most extreme and yet characteristic claims of journalism before the courts. Also: a relatively minor figure, the fact checker (called, at *Time*, "reporter-researcher"), Helen Doyle (minor only in the sense that it was in the very nature of Halevy's story not to be subject to Doyle's or to any conventional checking, but remarkable for the proposition that even *Time's* fact checkers assumed all of the journalist's peculiar manners on the stand); Sam Adams, the paid consultant and former member of the C.I.A., for bridging, in an extraordinary way, the special claims of journalism and "intelligence;" and Ray Cave, then *Time's* managing editor, less for his testimony on the witness stand than for his appearances, in the corridors and on the courthouse steps, before that other jury, the press, or, more precisely, *Time's* colleagues in the press.

These were the earmarks of Halevy's testimony on the stand and at his deposition: a virtual incapacity to give a straight answer to a simple factual question, coupled with an almost complete indifference both to what is conventionally understood by "facts" and to consistency between his own factual accounts or versions from one moment to the next; remarkably frequent use of the words "clear" and "very clear," almost invariably in the course of unintelligible, unresponsive, or plain absolutely implausible answers, and of the phrase "in substance, not in words" (almost nobody, in Halevy's testimony, ever *said* anything in words; people addressed each other either "in substance" or "in body language"); a highly personal idiom, which lapsed, at difficult moments, into malapropism of an almost delightful sort,

> Because, as a journalist . . . you don't want to be involved, you don't want to be caught with the red herring in your hands.

> Because I was described at the time . . . as a traitor, as Lord Ho Ho of Israel, as the Rose of Tokyo.

> If I had that conversation with one of these prime sources, I believe that the issue of the memo was brought up, but it's an iffy;

an idiosyncratic notion of his craft, and of writing generally,

> A. [It was] a matter of composing, in writing, and not of conveying information. . . .
>
> It's a form of writing when I said "questioning."
>
> Q. Did you notice a difference in words?
> A. Not in meaning, no.
>
> THE COURT: You didn't notice a difference in words?
>
> [Deposition: "A. No, it was in the exact language that we sent to New York, and it was beautifully phrased, and we had no problems with it."]
>
> Q. [You didn't notice that] there had been a change?
> A. It's the same meaning. . . . When we talk about language, I understand meaning;

an occasional, unembarrassed petulance,

> Q. How do you know what he told him?
> A. Sir, if you will let me finish, I will tell you.
> Q. Go ahead. . . .
> A. No, I will stop it.
>
> Q. Somebody mentioned?
> A. Not somebody. Pierre Gemayel is not somebody.
> Q. Pierre Gemayel?
> A. Somebody.
>
> A. Nobody of those who attacked me so viciously four years before that said "I am sorry. I am apologizing," any kind of thing, nothing.
>
> Q. Go ahead, finish your conversations.
> A. No, be my guest.
> Q. I didn't hear what you said.
> A. I said, "Be my guest." You stopped me.
>
> THE COURT: . . . Is that what you mean?
> A. No, because he is again taking my answer, twisting it, turning it upside down and expects me to say yes. No, I can't do it.
>
> A. What I said in my deposition and what I am saying here. You are distorting it. What do you want me to do with it? I am the witness, and you are attacking me. So be it;

and a kind of bizarre, self-confident, but utterly misguided pedantry, which led him to insist on certain distinctions ("You used the word 'investigation.' I said 'search.' There is a big difference between the two;" "There is no intelligence officer, Mr. Gould. I said an intelligence person"), and to venture several times (Judge: "told;" Halevy: "stated." Judge: "was;" Halevy: "were") to correct the grammar of the judge. Kelly, too, was inclined to this sort of thing ("I said 'military *dash* intelligence' "), and so were virtually all *Time* witnesses, from Duncan to the fact checker. De-

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spite a considerable facility in English, Halevy had a tendency to characterize as "trivial" or "totally irrelevant" certain key elements of the case. Thus, whether or not he had written the words "for revenge" in the headline "Green Light for Revenge?" became, between his deposition and his testimony at trial, "totally irrelevant;" so did whether or not he himself had *seen* (and told Kelly he had seen) the "newly discovered notes," or "minutes," of the meeting at Bikfaya at which "revenge" was allegedly discussed. What was said to him by Duncan in Athens, when Duncan put him on "probation," became "irrelevant," in the light of the letter that confirmed that conversation. Indeed, the article "The Verdict Is Guilty" itself became, according to Halevy, "totally irrelevant" (and, in effect, understated) in view of his own post-publication research. And yet, fairly late in Halevy's trial testimony:

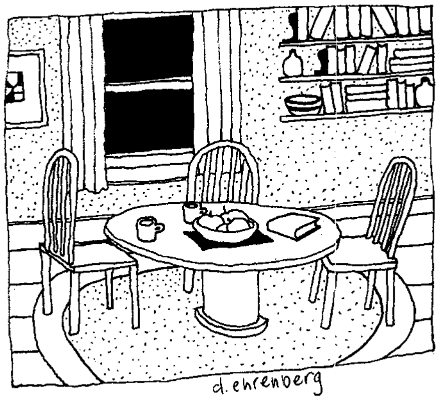
> Q. Do you know what "irrelevant" means?
> A. I think I do.
> Q. Tell us what you think it means.
> A. Insignificant, not important.

Nor was this sort of difficulty confined just to Halevy. Four days later, on the witness stand, Kelly, the Jerusalem bureau chief, repeatedly characterized the whole paragraph at issue in the lawsuit, as he had once characterized it in a telex to Duncan, as "innocuous."

> Q. You characterized that as innocuous, did you not?
> A. Yes, sir. I did.
>
> A. I still think it is innocuous, sir.
> Q. "Innocuous" means what to you?
> A. Without great drama.
> Q. What? I am sorry. I didn't hear you.
> A. Without drama, without great importance.

And, of course, these bits of testimony would themselves be, by any definition, irrelevant and innocuous were it not for the fact that these witnesses had, in their professional capacity, made substantial contributions to the paragraph, which the world's largest and most respected news magazine was engaged in this major litigation to stand behind.

It was not difficult, when all the testimony was in, to reconstruct what must have happened in Sharon. Halevy, having been severely censured at least once for a story *Time* printed and had subsequently to retract (and having been warned, as a condition of his probation, to produce "multiple sourcing," where possible, on all stories), heard or read in early December of 1982 that there existed previously undisclosed notes of Sharon's condolence call of September 15, 1982, on the Gemayels. In all probability, his "source" was Lebanese; more specifically, Phalangist; most specifically, one Fadi Frem (a son-in-law of Pierre and brother-in-law of Bashir and Amin Gemayel), whom Halevy alone, and with great insistence, placed at the Bikfaya meeting. By all other accounts, Frem was outside. In any event, this Phalangist, for perhaps obvious reasons (the Lebanese had conducted no inquiry of their own into responsibility for the massacres at Sabra and Shatila; no Lebanese consented to appear publicly before the Kahan Commission), told Halevy that newly discovered *Phalangist* "notes," or "minutes," of the meeting showed that Sharon "gave them the feeling . . . that he understood the need to take revenge." Indeed, the very wording of Halevy's Memo Item of December 6, 1982, on slightly closer scrutiny, made no sense *unless* the source was Phalangist, since no one else was placed to know what "feeling" Sharon gave "them"—and no one else, of course, had quite so immediate an interest in shifting blame for the massacres from the Phalangists to Sharon. No doubt the "source" portrayed Sharon's role at the meeting in stronger terms than these. But a story reading "According to Fadi Frem" (or "a highly placed Phalangist"), "who made notes of the meeting, Sharon ordered the Phalange to massacre the Palestinians" was not a story *Time* would print. In fact, to its considerable credit, and at the editor-in-chief's insistence, *Time* ran, in the same issue as "The Verdict Is Guilty," a brief story pointing out that Lebanon had never conducted a real inquiry of its own. So Halevy, perhaps judiciously rephrasing ("gave them the feeling," for "ordered them"), filed his Memo Item of December 6th, attributing his information to "a highly reliable source." When the New York office asked, two days later, by telex, for "clearance" (that is, whether the item was sufficiently reliable to run not just in the Worldwide Memo but in the magazine itself), Halevy, without hesitation, and without, by his own admission, checking further (claiming, at his deposition, to have been caught that week in the rush of his departure from Israel for Central America; though, virtually unperceived by any of the lawyers, he revealed at trial that his departure had really occurred the following month), simply cleared it.



Now, Duncan, as can be pieced together from other testimony, had warned Kelly, when Kelly became Jerusalem bureau chief, that Halevy was rather "a special blessing," and that, on the basis of Halevy's history at *Time*, Kelly should be especially careful about Halevy's sources. Halevy, it is quite clear from Kelly's testimony (and Halevy not only did not deny it; he could not in fact bring himself, till the bitter end, to admit that he had *not* read the "newly discovered notes"), assured Kelly that he himself had seen, by way of an *Israeli* source, the "notes" to which his Memo Item referred. Bearing in mind, no doubt, the admonition about "multiple sourcing," Halevy also said or implied to Kelly that he had several "sources" for his story, mainly, however (it is clear from Kelly's testimony, somewhat enshrouded by claims of the shield), the best "source" of all: a man undeniably present at Bikfaya, the "official notetaker" from the Israeli intelligence service, the Mossad. Something about the Memo Item, however, caused Duncan (according to Duncan's testimony) to ask Kelly whether he was "comfortable" with the story and its sources; Kelly replied that Halevy had both actually seen the "notes" themselves and learned about them (and here Duncan, too, somewhat veiled his testimony in claims of the shield) from the "notetaker" of the Mossad. Even so, something about the whole matter caused Duncan to hesitate. Though Halevy had "cleared" the story, and Kelly had conveyed Halevy's assurances about it, the story did not run that week in *Time*. Duncan and Kelly agreed that it should be subject to an "ongoing investigation." And there the matter rested, for five weeks, until Halevy, surely exasperated that the "scoop," for which he thought he had provided such an impeccable provenance from "sources," had not been published in the magazine, finally left for Nicaragua, and a very minor story about Israeli arms shipments abroad, which did not run until months after Halevy wrote it—and weeks after the Sharon lawsuit had begun.

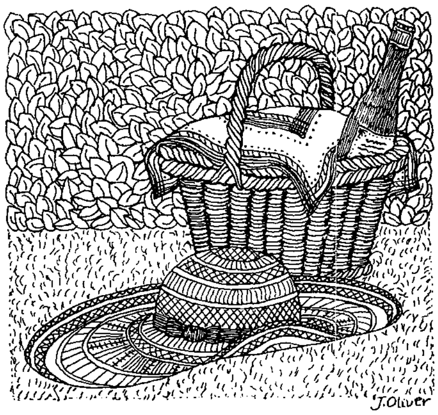
On February 8, 1983, Halevy returned to Israel to help with *Time's* cover story on the Kahan Report. Kelly, who had been in Israel only three months, and who did not know even the alphabet in Hebrew (in his deposition and at trial, he claimed that one reason he had not checked the story directly with Sharon was that he was incapable of looking up Sharon's number in an Israeli phone book), asked Halevy whether he knew what was in the Kahan Report's secret section, to which the published document referred at least nine times within brackets, Appendix B. And Halevy, perhaps understandably eager to see his story of two months before finally published, said, according to Kelly (and Halevy testified, "His recollection" of the conversation "is ten times better than mine"), "I know one thing that is in it: my Memo Item from December." Kelly asked him to check it. Halevy went to an adjoining office, where, he said, he phoned his "sources." A short time later, he returned to Kelly's office and (according to Kelly) said, "It's confirmed. It's in there," or (according to Halevy) communicated, in body language, "a sort of thumbs up," "in substance, not in words, that the information which we discussed earlier previously is confirmed." Kelly duly filed his story, including, in what became known as Take Nine, the sentence "And some of [Appendix B], we understand, was published in *Time's* Worldwide Memo, an item by Halevy, Dec. 6, for which we gave clearance . . ."

In New York, *Time's* writer William Smith rewrote the Memo Item, as is the magazine's institutional practice, making substantial changes. (Halevy: "No, it was in the exact language that we sent to New York, and it was beautifully phrased.") The changes, however, were easily explicable: "discussed with the Gemayels the need for the Phalangists to take revenge" for "gave them the feeling, after the Gemayels' questioning, that he understood their need to take revenge . . . and assured them that the Israeli army would neither hinder them, nor try to stop them." And, also in accordance with *Time's* routine procedures, Smith's completed story was anyway telexed to the Jerusalem bureau, for "C & C;" that is, "Comments and Corrections." The staff members of the Jerusalem bureau, to their credit, did find and correct two minor factual errors—both of which, as it happened, were anti-Israel in their implications. And one of the reasons all of *Time's* personnel who were involved directly in the reporting, writing, and editing of the paragraph accepted so readily its allegations concerning Sharon (it emerged from all their testimony) was paradoxical: the Kahan Report, as published, did not seem to them to contain a case against Sharon strong enough to support the commission's recommendation that he be fired, or resign, from his position as Minister of Defense. That is, in a kind of failure to comprehend the commission's finding of what it called "indirect responsibility" (namely, a degree of moral responsibility imputed to one who, though he did not know that disastrous consequences would follow his actions, or failures to act, should have known, or, more important, should have acted as if he knew), the magazine's employees searched the published report in vain for evidence that Sharon *did* know, and even intended, that massacres would follow from his actions; and, finding no evidence for such knowledge, concluded (as every *Time* witness put it) that the real case against Sharon lay "between the lines." From "between the lines" of a published report to its unpublished, "secret" appendix is a short intellectual jump—even though the published report, in this case, specifically called attention, by mentioning Appendix B in brackets, to each instance of reference to its secret section, and though the evidence *Time's* employees thought they found (a one-sentence account of Sharon's condolence call on the Gemayels) had no such brackets or reference of any other kind. With this profound but understandable intellectual failure (the kind of "indirect responsibility" the Kahan Commission defined had no precedent in law); and under deadline pressure; and with Halevy's word for his assurances from his proliferating "sources" (which included, by now, the "notes" themselves; the Mossad "notetaker;" an "Israeli general;" and Appendix B), *Time* published its paragraph, containing the allegation, regarded universally and within *Time* itself as a reporting coup, that a secret section of the Kahan Commission's findings contained "details" of a conversation in which, on the day after the assassination of Bashir Gemayel and the eve of the massacres at Sabra and Shatila, Sharon had discussed with the Gemayels "the need . . . to take revenge."

All this was explicable, defensible, and human; and, with the arguably minor exception of Halevy (in misrepresenting the number, reliability, and nature of his "sources"), all *Time* personnel conducted themselves professionally, and even honorably, up to and including the moment when the cover story reached the stands. Duncan, for example, showed an admirable instinct in hesitating to publish, at the time and without "ongoing investigation," Halevy's Memo Item of December 6th. Of course, to an outsider, or perhaps only in retrospect, every element of the story is totally and self-evidently preposterous. At least from the moment Halevy claimed to have "confirmed," *by phone, from the Jerusalem offices of a major publication,* information that any Israeli "source" could have given or confirmed to him only in serious violation of Israeli secrecy and national-security law, these journalists, so preoccupied with "secrets," and "confidential sources," and "investigative reporting," and invoking the shield law to protect the identity of "sources," should have suspected that something, in fact, everything, was amiss. Even Duncan, at his deposition, in explaining, in a fairly condescending way, why he did not ask Kelly, on one occasion, who certain "sources" were, said, apparently without realizing at all the implications, "I would never use names on the telephone in Israel." Israel has a censor. Israel has a secret service. Israel is, technically and legally, in a state of war with all its Arab neighbors except Egypt. It seems axiomatic that in most countries, but particularly in Israel, not one "source" (and particularly not, as Halevy would have it, several "sources," and those highly placed in civilian and military intelligence) will violate, seriously and at a moment's notice, by telephone, on a line with the offices of a major, internationally circulated publication, the highest secrecy and security laws of his country, to oblige even an "investigative reporter," who wants to confirm a story, to the satisfaction of his immediate boss, who is in the process of sending the ninth "take" of a telex, in the adjoining room. Still, Kelly was inexperienced in Israeli matters. Duncan was not in direct communication with Halevy. Mistakes will happen, in any enterprise, including publication, and especially, by its very nature, publication of the news. And there was still the possibility that, except for the "confirmation," the story was not a mistake. Up to and through the moment of publication, in other words, *Time's* position and its paragraph were well within the rules.

It was, of course, *after* publication that difficulties arose. Because when the person most obviously and directly implicated in the paragraph, and others in a position to have knowledge of the matter, vociferously and unequivocally denied it, *Time* refused both to investigate the matter further and to consider a retraction. The bureau chief congratulated the chief of correspondents for having created such a stir; and the institution refused to doubt. And neither the facts of the matter itself nor the journalistic processes that led to publication could have been reconstructed by anyone outside of *Time* unless Sharon had brought suit. Once suit was filed, the difficulties were compounded: still without further investigation of any kind, *Time* stood by its paragraph and spared no money, time, or moral effort to defend it, on no firmer basis than a kind of institutional solidarity; a relatively unexamined conception of the interests of journalism and the Constitution; and Halevy's already, well before the first day of his deposition, compromised and somewhat tarnished word.

To the question Why publish the story? the answer was easy: *Time* believed it to be true. To the question Why defend it, with the most aggressive strategies of well-funded major litigation (and beyond: in contradiction to a complete concession made last January as part of a settlement before an Israeli court, *Time* defends the substance of the paragraph to this day)? the answer *Time* still believes it to be true is not sufficient. Why not? For one thing, older than the First Amendment safeguards of freedom of speech and of the press was Western civilization's interest in the Ninth Commandment. "False witness," by any definition, has always included libel and slander, and certain forms of perjury. The two former generals seemed particularly robust "neighbors" under the commandment. (And it is no more difficult to reconstruct, on the basis of testimony, the processes that led to Westmoreland; the simplest explanation, however, is that if Crile, or anyone, had gone to CBS News with a proposal for a program based on the thesis that five years ago, and eight years after the events in question, we lost a war as a result in part of having underestimated enemy troop strength, and devoted to ninety minutes of balanced exposition, from one viewpoint and another, of who might have been responsible for those underestimates, if they were in fact underestimates, CBS News would have said, at best, "What else is new?" and "Are you crazy, ninety minutes?" and sent him on his way.) It can also be said that no person or institution, in all the years before broadcasting and the other forms of mass publication, was placed to bear false witness into nearly every household, on anything like the modern scale. Moreover, Professor Owen M. Fiss, of the Yale Law School, has argued that the scale of the contemporary media has created a condition, never contemplated in the Constitution, in which the two freedoms, of speech and of the press, may actually be at odds. When journalism brings to bear the whole technology of dissemination, backed, at every point, by the whole arsenal of litigating strategies, the speech of all but the most powerful is, to all intents and purposes, suppressed. Sharon and Westmoreland were "neighbors" powerful enough to make themselves heard, in press conferences, against what they regarded as false witness, and, when the press, in each instance, stood by, and even reiterated, its position, to pursue the matter, under oath, and through the courts. Both would, as a result precisely of that power (if not immediately then at some appellate level), have lost their cases; but, along the way, they had the means and the opportunity, under the legal system's toughest standard, to prove, to the satisfaction of a jury, that the witness borne against them was false. But few citizens are placed as powerfully as former generals. And though the First Amendment has been held, since Sullivan, to tolerate a certain category of inadvertently false statements, in the name of freedom of debate and of expression, it cannot be held to license wholesale violations of the Ninth Commandment, or to abrogate a profound system of values, which holds that words themselves are powerful, that false words leave the world diminished, and that false defamatory words have an actual power to do harm. Nor can it be that any Constitutional or journalistic interest is served by these stages of resolute insistence (first, in the world, after the moment of publication; then, under oath, in the courts) that the story, the "witness," as published, is true; and of resolute refusal to inquire (first, for reasons largely of public relations; then, when suit is brought, on the advice of lawyers), all for the sake of "winning," and without care, at any point after publication, whether the story, the witness (now even in the literal, legal sense), is, quite simply, false.



But *Time* and CBS, aggressive as they were, with and through Cravath, in the conduct of their cases, were not, at least not entirely, knaves, or fools, or villains. Both cases, in fact, were very nearly settled at various points along the way. CBS, fairly early in the trial, offered to pay Westmoreland's legal costs, plus a nominal sum, and to issue a judiciously worded retraction. Burt, however, having fared better than Boies in the battle of leaking evidence to the press in the months before trial, became overconfident in his ability to handle the trial itself, and turned the offer down. During the trial, while Boies found time to make himself available to reporters on many evenings, Burt became alternately introverted and short-tempered with the press, and (to a degree that even the jurors observed) with his own staff. His performance in court was not being well reviewed. What praise Burt received, and seemed to value, came increasingly from Boies—who frequently assured him, in the presence of others, at the end of the courtroom day, that he had handled a witness or a line of questioning extremely well. Boies also told Burt, several times, that Dorsen was ineffective and not a team player, and actually advised Burt to take Dorsen off the case. Asked, after the trial, by a reporter *when* he had given Burt this advice, Boies said "six or eight times," three times pretrial and the rest while the trial was actually going on. Meanwhile, Burt and his own few associates were becoming, as one young associate put it, "estranged."

In Sharon, it was *Time* that turned away: once, before the trial began, from a settlement that *Time's* attorneys assured opposing counsel they would recommend to their client (and that the client then turned down); again, in December, near the end of trial, when *Time's* attorneys assured opposing counsel that their client had accepted a proposed settlement, and the client, before signing, changed its mind. This second failure to settle marked a turning point in Sharon. *Time's* reconsideration, and rejection, of the settlement it had just agreed to has never been satisfactorily explained. Indeed, it has never been explained at all; there is only the court record to show that it occurred. What might possibly have prompted the reconsideration was, of all things, an article on the Op-Ed page of the *Times*. In the article, Ira Glasser, executive director of the American Civil Liberties Union, praised CBS and *Time*, by implication, for withstanding the grave threats posed by the lawsuits to First Amendment rights. Neither Glasser nor the *Times*, of course, could know that, on the very day the piece was published, an accord between the plaintiff and the defendant in Sharon would have been (and, possibly because of the piece, was not) signed. All courts and all judges advocate settlement, wherever possible, in civil cases. It is a matter of principle, and of public policy, to encourage settlement instead of litigation to the bitter end. And Judge Sofaer, in an Opinion and Order signed on November 26, 1984 (but sealed until late January, when the case was over), put it very firmly:

> The favorable treatment accorded to the judgments of reporters, in their reportorial function, provides no support for deferring to an excessively aggressive and hence unnecessarily costly litigation strategy adopted by the press at trial. The press, in short, has no more right than any other litigant—and far less reason in light of its Constitutional defenses—to turn a libel litigation into an unlimited war.... [The] remedy lies in adjusting the law to

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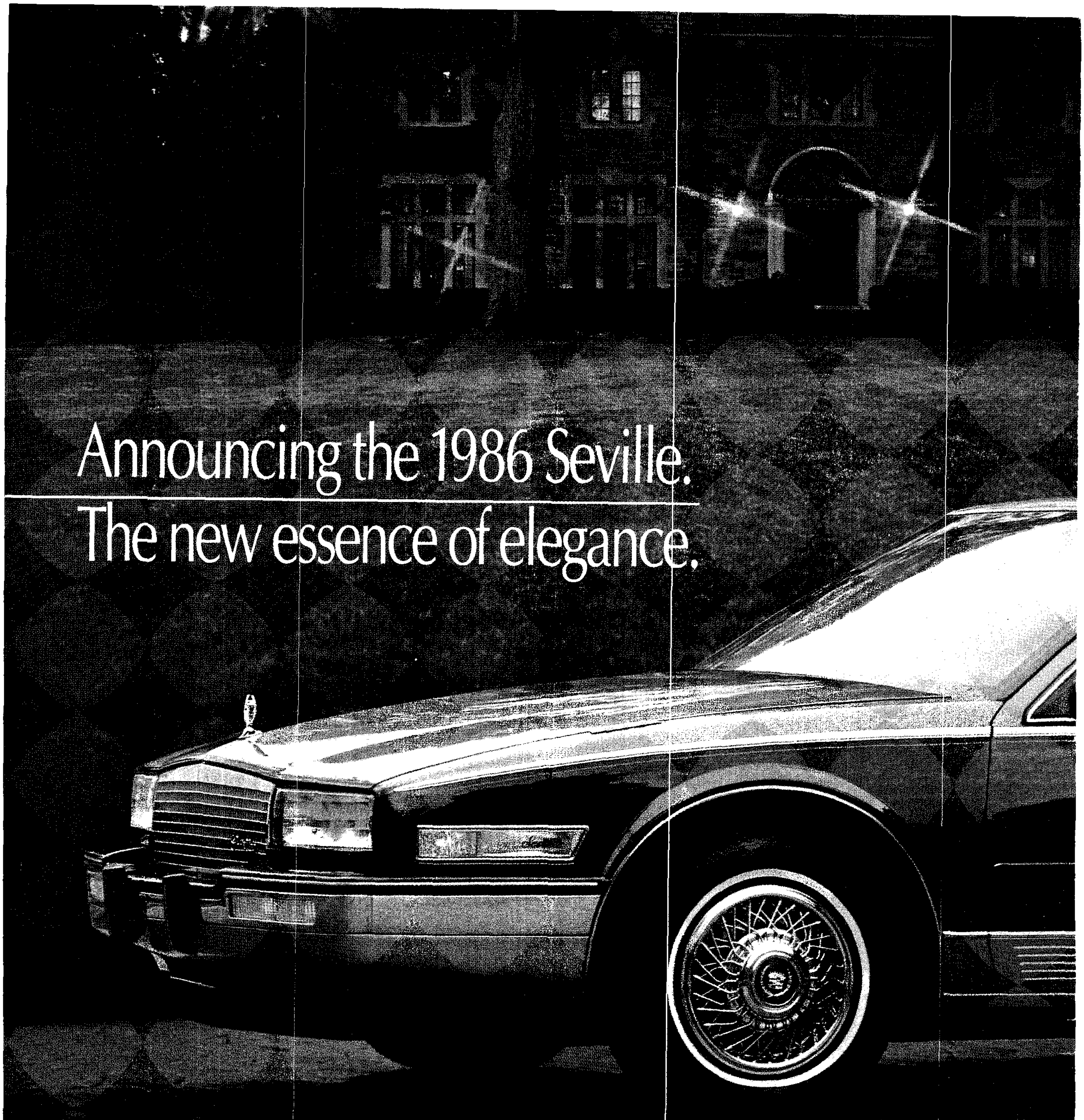

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Behind the real American walnut-trimmed instrument panel lives an electronics system so advanced it was inconceivable a few short years ago. Technology not just for technology's sake, but technology designed to as the awful al publication is n. The pressure to , moreover, is in- the editors see as the ersuasiveness of this fel- as after all (the same qual- aged to ingratiate himself ime to time with a "confidential ce." And since contemporary journalists so rarely contradict *whatever* story a colleague, albeit a rival, may have published, but rush, rather, to pursue the same, perhaps erroneous story further, the editor is under almost no countervailing pressure not to publish. At worst, he risks an outraged letter from someone, somewhere, which, no matter how thoroughly it may demolish every factual assertion in a given piece, never carries, and, of course, can never carry, the weight of the initial and erroneous story. A thorough study of letters columns in publications ostensibly concerned with news can be a revelation, and a case history in disproportion and injustice, compounded when the editors follow the letter either with a scathing answer from the writer of the original story or with some statement to the effect that the publication stands by its story. The *Times*, almost alone among major news publications, has made an effort to rectify this situation: with both a prominently featured Corrections column and an Editors' Note. But this very policy required a kind of courage—in the face not only of the glee of rivals when such a note or correction appears (as it does now almost every day) but of the criticism of employees and colleagues (who feel that some standard of loyalty is at stake, or that such notes make the paper look ridiculous), and even of readers, who, remarking the frequency of the notes (and the fact that almost no other newspaper has them), tend to think that the *Times* makes an inordinate number of mistakes. And, though both these correction columns may, from day to day, be far from perfect, they express at least an institutional acknowledgment not only of the power of journalism, and the relative helplessness of those whom it misrepresents, but of an obligation to what is, after all, journalism's first and fundamental purpose: accurately to report, and not, out of some atavistic institutional reflex, actively to mislead, to compound an initial error by either leaving it unchallenged or insisting it is true.

In any event, the first day of David Halevy's deposition, September 19, 1984, began slowly and, it seemed, undramatically enough, with only the slightest indication that there would be any difficulty, for example, between opposing counsel (for plaintiff, a young attorney at Shea & Gould, Adam Gilbert; for defendant, Cravath's Barr), and, on the part of Halevy, just a few intimations of his personal style and idiom. "I think Mapai," he said, for example, of a political party to which he once belonged, "was in the center, with a little pinky color there, that's all.... There was a tint of pink, of red, of leftish." Within minutes, however, in response to a series of questions which began "After 1969, were you affiliated in any way with any political party in the State of Israel?" and which included "Have you ever performed any services to the benefit of the Labor Party?," Halevy (having already volunteered that in 1969 "I gave a bye-bye kiss to party affiliation") answered, five times, "No." Soon after that, having responded negatively, and even expansively, to a series of questions as to whether he had ever "been sued," or even "been party to a litigation," Halevy, in response to the rather startling question "Have you ever been involved as a defendant in any criminal proceeding brought in any jurisdiction?," also answered, "No." The very next question, however, "Do you recall, sir, whether or not a charge was ever filed against you in Magistrate's Court in Tel Aviv?," elicited from Halevy, "Sure. I knew that you will come to it, Mr. Gilbert." And, within less than four paragraphs, it developed that, in a complicated episode that included Halevy's holding his maid at gunpoint, "I was charged with an illegal arrest." There followed a long exchange, which included:

> Q. Was a criminal proceeding commenced against you . . . ?
>
> A. I don't know. . . . I had a lawyer. You can ask him.
>
> Q. To your recollection, did the charge involve improper use of a revolver?
>
> A. If you want—
>
> MR. BARR: Objection.
>
> A. If you want to take what—
>
> MR. BARR: Yes or no. Answer yes or no.
>
> MR. GILBERT: He can answer it in as many words as he likes.
>
> MR. BARR: Yes, he can, but I am telling him to answer it yes or no.

And the answer was "Yes."

From there, it became clear that the deposition was going to be neither as undramatic nor as quotidian, and even tedious, as it at first appeared. The episode with the maid held at gunpoint became increasingly exotic, but, in spite of the effects Halevy's initial series of "No"s might have had on his credibility, never came out at trial. The denial of any affiliation after 1969 with any Israeli political party did surface, however, within the first ten minutes of Halevy's appearance on the stand. "In 1969, I quit all my involvement in politics," he testified serenely. Then:

> Q. At no time were you a member of the Labor Party?
>
> A. At no time at all.
>
> Q. Now, sir, I would like to direct your attention to a deposition that you gave on May 28, 1982, and I am referring to page 10.

And it turned out that, according to Halevy's sworn testimony, in 1982, in a lawsuit called Sharoni v. Media International, he *had* been a member of the Labor Party; in fact, "I joined the Labor Party and served as editor-in-chief of the Labor Party." Halevy's attempts to account for this transparently flat contradiction included: "The matter . . . during that deposition was not the interest of anybody;" and "It was not the issue. It was not a political deposition;" and "Nobody understood there anything about the Israeli politics . . . I didn't want to confuse them." Furthermore, somewhat later in the trial, Halevy's testimony that he quit all political affiliation (gave, in his words, "a bye-bye kiss" to politics, in 1969) faced what might have seemed, to another sort of witness, another flat and awkward contradiction. Duncan, according to his own testimony under oath, had specifically demanded in 1978 that Halevy desist from his "involvement in Israeli politics," which had included his work for Shimon Peres and the Labor Party in the campaign of 1977.

The maid at gunpoint, and Halevy's sworn testimony, on every side of the question, when, how, and whether he had been involved in Israeli politics were, of course, minor, almost inconsequential episodes in the course of litigation, entirely unrelated to the central issues of the trial. But even these first moments of Halevy's testimony, at his deposition and at trial, mit such access, simply because it had not already done so, and certainly had shown no eagerness to help the plaintiff, whom many Israelis, including members of the government, considered, for reasons quite outside the litigation, dangerous. Certainly the government of Israel could not so precisely have calculated the time of its decision as to coincide quite literally with Sharon v. *Time's* last minute; and certainly Cravath so abruptly rested its case when it realized that Israel's decision was imminent, and in the hope that it would come too late. For some time, American judicial process and Israeli parliamentary process were in suspension. In all likelihood, it was the breadth and harshness of Cravath's attack that triggered the result. But what set these forces in motion had been, after all, a paragraph; and the very narrowness of the initial issue brought not so much *Time's* journalistic procedures as its participation in the judicial process into particularly sharp relief.

"And so the issue is posed very starkly" had been, for a particularly precise and eloquent judge, an odd thing to have to say. "Mr. Halevy is at risk in this litigation. Mr. Sharon is at risk in this litigation." But Sharon, though "at risk" in the obvious ways, was a relatively minor figure in the case; and the judge also, at one point, suggested, mildly, to *Time* to check whether its paragraph might have been wrong, and, if it was, to say so, and leave "the ultimate issue of Minister Sharon's morality to the arena of public debate, where it belongs." And the case was not, after all, Sharon v. Halevy; it was Sharon v. *Time;* and *Time* somehow chose to *make it the same thing*. There are several reasons a publication might choose to do this: that the reporter is an admirable, oppressed, and courageous figure (a sort of John Peter Zenger reason); or that the reporter is an ordinary, competent, representative member of the staff, in the sound exercise of his profession (a reason of professional principle and staff morale). But there was something about Halevy that seemed to turn all such reasons upside down, and to bemuse and inspire *Time's* attorneys to the outer edge of their litigating style, as it transformed the magazine's hierarchy of veteran, seasoned journalists into complacent, credulous, patronizing figures, each one incapable of giving a straight answer to a factual question, in his own individual way. It must be admitted that there *was* something disorienting about Halevy. "Lord Haw-Haw" and "Tokyo Rose" were easy enough; but any number of things he said gave one a little jolt, or double take, of, Wait a minute, just too late to catch up with whatever he might say next. It always seems surprising that as witnesses before even the most august or crowded courtrooms, in even the most difficult cases, people, even normally timid people, do not seem nervous. By and large, witnesses are calm. The most common explanation for this is that they have so often been through the same material, with the same opposing counsel, under such "hostile" circumstances, at their depositions, that being questioned in the presence of the judge by their own counsel, or even by opposing counsel, seems relatively benign. Still, Halevy's frequent "Be my guest;" or "It's not my writing. I did not carry out the massacre; the Phalangists did. So, sir, what are we talking?;" or "I don't want to argue with you, Mr. Gould;" or "It's not my duty to judge you here, Mr. Gould" seemed the answers of a man inordinately at ease, in his own courtroom.

Q. Did he come to you or did you go to him?

A. Does it make any difference?

MR. BARR: *Answer.*

A. I am sorry. I came to him.

This exasperated "*Answer*," from *Time's* chief counsel in the case, was the only indication that the attorneys were ever anything other than enchanted by this correspondent. (It may even be that there is something both amusing and especially challenging to a lawyer in a witness who will, or might, from one moment to the next, say *anything*.) And, from at least the first day of his deposition, counsel and client must have realized they had something of a rogue witness on their hands. Here is how his deposition, and Kelly's and Duncan's, looked.

DAVID HALEVY'S deposition occupied four full days, beginning on Wednesday, September 19, 1984, and ending with a brief session on Tuesday, September 25th, the fifth day, with testimony that lasted only an hour and forty minutes. His testimony at the trial occupied six full days, beginning on the afternoon of Tuesday, November 27th, and continuing through the morning of Thursday, December 6th. In the afternoon, he was succeeded on the stand by Harry Kelly, w taken four days, 17th through Sept had included alterca counsel, Richard Golds & Gould ("I think that utter bad faith and I say s record, . . . I think it's an o that you want to practice like th and Stuart Gold, of Cravath (think, Mr. Goldstein, that your statement is so outrageous, I don't even want to grace it with an answer"), and ended with a walkout, by Kelly and Gold. Kelly spent three days on the stand, from December 6th to December 10th. He was succeeded by William Smith, the writer; Helen Doyle, the fact checker; the deposition testimony of two minor witnesses; and then Duncan, whose deposition had lasted three days, from September 11th through September 14th, and who spent three days, from December 13th through December 18th, on the stand. Duncan had been the first major *Time* witness to testify on deposition, Halevy the last. In other words, Halevy, Kelly, and Duncan were called to the stand in the reverse order of their depositions; and they spent altogether twenty-four days under oath.

It may be that, in the contemporary notion, or fable, of what an "investigative reporter" is, in contrast, for instance, with any earlier type, the contemporary "investigative reporter," in contemporary myth, and even by his own account, is inevitably a sort of scoundrel. That is, even though he may emerge from time to time with what the world (or, at least, his editors and colleagues) regards as valuable information, amounting to a reporting coup, at other times he is bound, by his techniques of mystification, which include the "confidential source," not only to misunderstand, distort, and exaggerate what he does know (or has heard somewhere and claims to know) but to fabricate, or at least be tempted to fabricate, what he doesn't. For the editors of an otherwise responsible publication, such a fellow must present a sort of quandary. He purports to know a story still unknown to any of his rivals. In the past, he has occasionally been right with stories of that kind. On other occasions, he hasn't. In any case, he is the publication's employee. His employers obviously believe, at least initially, that they have grounds to trust him. And if they do not accept and print the story he claims to know, they run what they

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enhance conciliation [rather than persisting in] their increasingly inflamed views of each other in a drama whose conclusion could be a major disaster for at least one of them.

And by December 20, 1984, in the courtroom (jury not present):

> And so the issue is posed very starkly. Mr. Halevy is at risk in this litigation. Mr. Sharon is at risk in this litigation. I have said that to the parties from the outset. I have tried to tell you both that you are putting yourselves in the hands of the jury, not only yourselves as *institutions*, or as *law firms*, or as *magazines*, but as two people, Ariel Sharon and David Halevy.

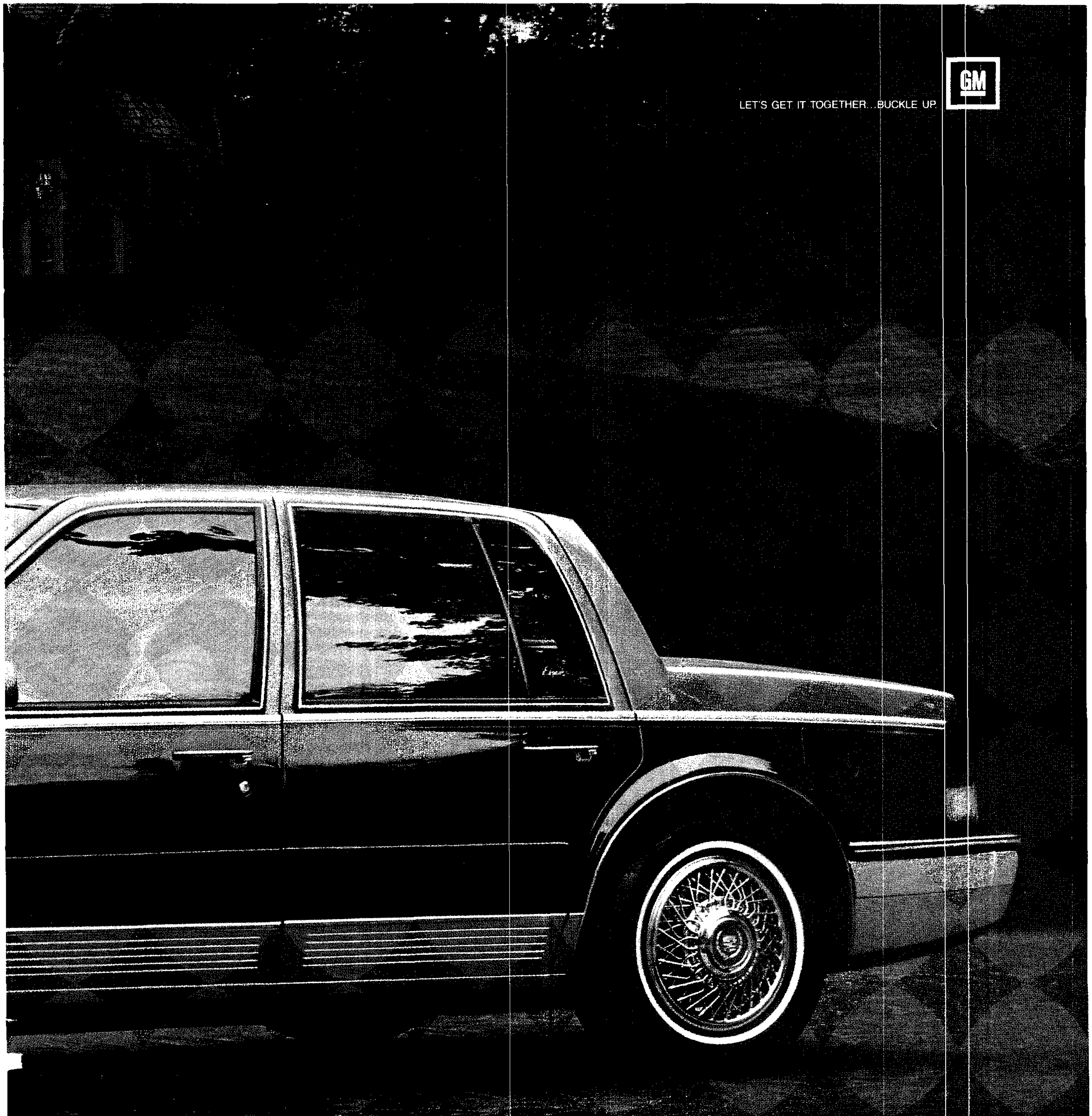
It is very unusual for a judge to include "law firms" among the parties at risk in litigation. December 20th was also the day the defense, at the conclusion of the plaintiff's case, without calling a single witness, rested. All *Time's* witnesses had, of course, appeared, and been questioned by their own counsel, when they were called by Sharon's attorneys, as "hostile" witnesses, to the stand.

> MR. [PAUL] SAUNDERS: Yes, your Honor. We will rest.
>
> MR. GOULD: I need hardly explain to your Honor that we are astonished, in view of the colloquy that we had this morning.
>
> THE COURT: I am not astonished. Just for the record. . . .
>
> MR. GOULD: You know, it is one of the peculiarities of this case that they did put in a case, through the witnesses that we called, while technically they were our witnesses, obviously.

On January 2, 1985, when there was no longer any doubt, in anybody's mind, that there were no "details," or even any mention, either of a discussion of "revenge," or even of Bikfaya, in Appendix B, but when it was still unclear whether Israel would or would not provide access to all other evidence relevant to the case (both attorneys said they had prepared their summations to the jury on the assumption that Israel would not provide such access; the judge said that he had made the same assumption in drafting his charge), Judge Sofaer made one last, wistful effort to encourage settlement. This was the day he expressed his intention "to put this case to rest forever;" but he also said:

> I haven't given up on constructive talking. It seems like the atmosphere has gotten less and less conducive to that, whereas it should be getting more and more so.

But there was no settlement. And the reason *Time's* repudiation of the second agreement marked a turning point was that Cravath, in what Judge Sofaer had already characterized, in his Opinion and Order of November 12, 1984, as "*Time's* all-out litigation strategy," thereafter set out on *so* broad and aggressive a course of litigation that it attacked not only Sharon, for alleged acts of brutality and dishonesty ranging back to his earliest youth (including an incident, in 1953, at Kibya, which was covered, in a particularly lurid piece of misreporting, in *Time*, under Henry Luce), and for alleged perjury before the Kahan Commission (in testifying that he did not know or intend that the massacres at Sabra and Shatila would occur), and for alleged perjury in Sharon v. *Time* itself (for denying that the discussion at Bikfaya of "the need to take revenge" occurred), but, inescapably and by implication, the integrity of the Kahan Commission. Because, in imputing to Sharon only "indirect responsibility" for the massacres; and in not mentioning the "revenge" discussion in the published report; and in not attaching to its one-sentence, uninflected account of the "condolence call" at Bikfaya a mention in brackets, or any other sort of reference to Appendix B, the commission became, inescapably, not an honest (and legally unprecedented) inquiry into national responsibility but a whitewash and a coverup. And the attack, of course, implicated the whole State of Israel. Because certain acts of alleged brutality ascribed to Sharon were incidents in Israel's early history, which Israel regarded as acts committed, as humanely as possible in the circumstances of war, in its own defense; and because if the Kahan Commission was not an honest inquiry then the State of Israel, which had appointed the commission, and accepted its report and recommendations, was, initially and finally, but at all times directly, responsible, probably for the massacres themselves but in any event for the coverup. And it is likely that, in so broadening its attack and its theory of the case, Cravath inadvertently caused the government of Israel to reconsider its reluctance to permit unprecedented access, in private litigation, to its most secret documents. It may be that the defense, in this broad view of the case, for some time believed that Israel *could* not permit such access, under rules agreed to by the court and both parties, because the documents themselves would prove so compromising, and thereby confirm the defense's theory of the case; or that Israel would not per-



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contained certain key elements of everything that was to follow. First, and most technically, there was the fact that although plaintiff's counsel led the witness almost immediately, in his deposition, into a demonstrably untrue answer (more precisely, an entire sequence of such answers), counsel did not press him too hard. Once Halevy had stated, under oath, unequivocally and for the record, that he had never worked for the Labor Party, and that he had ceased all involvement in Israeli politics in 1969, there was no need (in fact it would have been an act of unprofessional folly) to confront him immediately with his sworn contradictory testimony from that earlier trial. Better by far to let him take the stand and testify, serenely and complacently, in the courtroom, believing, or having every reason to believe, that the earlier testimony, in Sharoni v. Media International, was safely forgotten; and let the jury (and, for that matter, his own counsel, Barr, to whom the earlier testimony evidently came as a surprise) see how he reacts when he learns that opposing counsel has the information now. What is no news about this is that "discovery" (including, especially, depositions), and perhaps even the entire process of civil litigation, is a kind of game. A less competent attorney than Gilbert might have sprung the earlier testimony right there at Halevy's deposition, thereby alerting both the witness and his counsel, and giving them ample time to prepare a perhaps less lame explanation ("It was not the issue. . . . I didn't want to confuse them") for what the witness now testified, on the stand, was his own false prior testimony under oath.

A more surprising element, reflected not only in this minor incident but pervading nearly all subsequent depositions and the trial itself, was the rather cavalier attitude, even the insouciance, with which all defense witnesses, and their counsel, seemed to face every instance, and there were many, of violations of what is supposed to be the game's most fundamental rule. Tell the truth, every responsible lawyer tells his witnesses in preparing them for their testimony under oath. Yet witnesses on the stand testified so often and so demonstrably in flat contradiction to their own earlier sworn testimony, or to any conceivable version of the truth, that the judge, as though embarrassed (and this is the custom in modern civil litigation), would restrain plaintiff's counsel from stressing or calling too much attention to it. "The record speaks for itself," Judge Sofaer (and, in the other case, Judge Leval) would say, from time to time, when counsel pursued such statements to the verge of demolishing too thoroughly the credibility of any witness; or "The jury will evaluate it;" or "Counsel, you can argue that to the jury." The press witnesses in both trials, on the other hand, seemed so perfectly unfazed at being caught (any ordinary citizen would consider himself "caught") in two flatly incompatible sworn statements that, quite apart from any implications this might have for their sense of fact as journalists, their impression, as witnesses, of what consequences follow in a court of law from less than truthful testimony under oath was clearly not grave.

The first day of Halevy's deposition yielded, in addition to the instances of the witness's personal style and idiom and the two immediate instances of the witness's willingness, indeed, near-imperturbability, about testifying falsely under oath (never having been sued before, when there had been the incident of the maid at gunpoint; and the "bye-bye kiss" to politics in 1969), several instances of the witness's making statements that were inherently implausible (that he learned the story, for example, of the "revenge" discussion two or three weeks before he filed the Memo Item of December 6, 1982; that to the Memo's headline "Green Light for Revenge?" he had contributed only the words "Green Light" and the question mark, and that someone else, perhaps in London or in Paris, had added "for Revenge"); that he had a notion of the protections offered by the New York Shield Law, which adopted the language ("I decline to answer," etc.) but vastly exceeded the protections of the Fifth Amendment; that his memory of certain events of vital importance to the central issues of the case differed radically from the memory of both Kelly, his Jerusalem bureau chief, and Duncan, *Time's* chief of correspondents (but that, in a rather coy and guarded way, he deferred to their versions). He had, by the first day of his own deposition, read the first two days of Kelly's deposition and all three days of Duncan's. In response to the question whether Kelly was accurate in his testimony that Halevy told him that he himself

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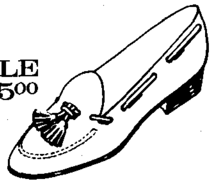

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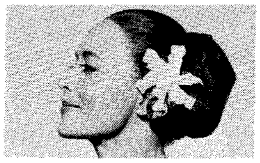

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had read the notes, Halevy said, for instance, "Mr. Kelly is entitled to his answer; I'm entitled to my answer;" "I recall that I thought Mr. Kelly gave you too much information;" and even "I don't recall what was said there, because [whether I saw the notes or not] is a trivial issue, and I think"—at which point his own counsel spoke up with an interruption. The first day revealed, as well, the witness's idiosyncratic notion of what journalistic writing, or any writing, is (when he wrote, for example, in his Memo Item, "a highly reliable source," in the singular, he meant several sources: "[It was] a matter of composing, in writing, and not of conveying information"); and an altogether remarkable indifference to consistency (asked how many were the sources for his Memo Item, he gave, in the course of this day, for example, the answers "between eight and fifteen;" "I will say many;" "not less than eight and not more than fifteen;" "Yes, two prime sources. I don't recall if there were any more;" "But to be exact with you, I will say there were three prime sources").

THE relation between counsel on this day also provided a continuation of what happened in the deposition of Sharon (and Duncan and Kelly), and all subsequent Cravath depositions. "Mr. Gilbert: Tom, could I ask you not to rap your fingers on the table" was an early note. Later, "Mr. Barr: Once in the record makes it clear. We don't have to triple check. That is not the way we take a deposition;" then, in answer to Gilbert's question "When may I expect an answer from you?," "When you get it." Nearer the end:

Mr. Gilbert: Tom—

Mr. Barr: Let me finish.

Mr. Gilbert: This isn't the kind of thing we need on this record. You can tell it to me—

Mr. Barr: You started it.

Mr. Gilbert: I asked you whether I could have some documents to examine this witness about it.

Mr. Barr: You started it.

Mr. Gilbert: You said I could.

Mr. Barr: You started it by saying that isn't very helpful.

Until, at the end of the day:

Mr. Gilbert: Tom—

Mr. Barr: Let me finish. If you won't, I'm not interested. . . .

Mr. Gilbert: Wait a second. Don't run off.

Mr. Barr: Go ahead. You can say it as many times as you want. The deposition is adjourned.

Mr. Gilbert: Do you want to stay here while I call the judge? I am going to call him right now. . . .

Mr. Barr: You do anything you feel like doing.

Whereupon, at 5:05 P.M., Barr departed, taking the witness with him. The following morning, the second of Halevy's deposition, began with the conference call to the judge, which Gilbert had attempted the preceding afternoon. (Calls to the judge in the middle of depositions are extremely rare; in Sharon, they averaged more than one per witness.) The colloquy included this exchange:

Mr. Gilbert: I want to finish this deposition now. . . . Are you prepared to keep Mr. Halevy past four o'clock today?

Mr. Barr: I want you to call the judge, and talk to the judge, Sonny.

Mr. Gilbert: What did you call me?

Mr. Barr: Sonny. That's what you are acting like.

Mr. Gilbert: You are the most boorish adult—

Mr. Barr: Call him.

Mr. Gilbert: —that I think I have met in a long time.

Mr. Barr: Are you going to call him or am I?

Mr. Gilbert: I am going to call him.

Mr. Barr: Do it.

Mr. Gilbert: Before I do, Mr. Barr—

Mr. Barr: Jesus Christ.

It is not altogether unusual (in fact, it seems to be one distinct style in the contemporary practice of law) to proceed as rudely and ferociously as possible. It may even be a standard technique for lawyers in that style to interrupt (particularly when opposing counsel is a young, relatively inexperienced attorney) by every possible means (including the use of speeches, hints to the witness, and every variant of bellicose incivility, interspersed with utterly frivolous objection) the whole rhythm of a deposition—especially when there are certain substantial matters, embarrassing to the client and the client's witness, that might, in an ordinary, courteous, orderly deposition, come to light. Opposing counsel, whose line of questioning is thus disrupted, cannot, of course, be constantly calling up the judge. By afternoon, the lawyers' relationship had deteriorated further. Barr had just expressed himself to the effect that Shea & Gould's inability to take depositions on the Jewish holiday Rosh Hashanah "is inherently incredible to me" and "a dodge."

Mr. Gilbert: Mr. Levy—

Mr. Barr: After two days, can you remember the witness' name, counsel? Normally, when I fail to call someone by his right name, I apologize. Don't you?

Mr. Gilbert: Mr. Halevy knows that it was an unintentional error.

Mr. Barr: All I'm asking is common courtesy.

Mr. Gilbert: I am prepared to extend as much courtesy as I can, more so than you, who seems to want to use words like "Sonny," "horseshit," etc.

Mr. Barr: Let me tell you something, counsel. One more time, I warn you, one more time of that kind of uncalled-for, unjustified conduct on your part, and we will terminate the deposition, and you will go and explain to the judge why you should say things like that.

Mr. Gilbert: Is anything that I quoted of yours inaccurate?

And this style of professional conduct was by no means confined to the Halevy deposition. On September 11th, 12th, and 14th, when Duncan was the witness, the attorneys (Saunders and Goldstein) had been more restrained. But Saunders objected so frequently, and at such length, and for such unconventional reasons, to Goldstein's questions that Goldstein, remarking that these objections both disrupted the deposition and gave clues to the witness how to answer, made two phone calls to the judge. At one particularly delicate moment, when the questioning was approaching the matter of whether or not Duncan had been told that one of Halevy's "sources" had been present at the condolence call, Duncan became confused and decided, literally at Saunders' prompting, to ask for a break to go to the men's room. Goldstein, alluding all but explicitly to the possibility of coaching such a break would provide, asked Duncan just to stay long enough to answer yes or no to the pending question:

Mr. Saunders: . . . The witness wants to go to the men's room. *This is not a rubber hose interrogation.* Let the witness go to the men's room.

Q. Is it inconveniencing you to take another twenty seconds and answer a question of mine?

Mr. Saunders: Mr. Goldstein, that's not proper. *Let the witness go to the men's room.* What is this? *Go to the men's room.*

When Duncan returned from the break, Goldstein said, as he rephrased his question, "Let us try to clear this up, Mr. Duncan. . . . Your answer is yes, no, or I don't recall, or anything else you want to say;" and Saunders, by no means a humorless man, said, "I hope you won't try and limit the witness." By the next day, Goldstein had his ruling from Judge Sofaer (that counsel were to confine their objections to the words "objection" and "objection to form") and let the witness answer. But the ruling was ignored absolutely throughout the depositions; and counsel could not, after every other question, keep calling up the judge.

Mr. Gilbert: This a conference call being placed to Judge Sofaer, Adam Gilbert . . . with Tom Barr, regarding the Sharon matter.
Voice: Who did you wish to speak with?
Mr. Gilbert: Judge Sofaer.
Voice: Is this another dispute on the deposition? . . .
Mr. Gilbert: Yes it is. . . .
[Pause]
The Court: Hello.
[Some time later]
Mr. Barr: Thank you, your Honor.
The Court: Thank you. I think that you should stay calm, gentlemen. You are all wonderful people.

In the Kelly deposition, it was attorneys Gold and Goldstein; and on the first day:

Mr. Gold: . . . And if you do not avail yourself of that opportunity, we will feel free to tell Mr. Halevy he may go about his other business.
Mr. Goldstein: And we will feel free, unless we consent to that, to move to have your answer stricken. So we will both feel free as birds, and we will let the judge decide which one of us did the right thing. . . .
Mr. Gold: Mr. Goldstein, I know you know the history of the Doyle deposition and *your firm's very poor showing* at the way you handled it in terms of its scheduling.
Mr. Goldstein: I would honestly say I have no idea what you are talking about. I also say, I don't want to waste any more of this page, and I think that—do you want me to wait until you are done? I don't like to talk when somebody is not listening, Mr. Gold.
Mr. Gold: Does that require a response by me?
Mr. Goldstein: I think that required a little courtesy for you to be listening to me when I am talking. I think the whole thing is childish. . . . I think the judge is understandably tired of hearing it, so I am going to ask the reporter to stop. . . . I will tell you that I won't pay for anything from this point on that relates to this subject.

By the second afternoon:

Mr. Gold: If you stop— . . . In response to your statement, all you have to do is stop the little tricks.
Mr. Goldstein: Don't ever accuse me of a trick. I will leave it at that. Don't you dare accuse me of a trick on the record.

Two days later, in the Halevy deposition (whose first two days ran concurrently with Kelly's last two):

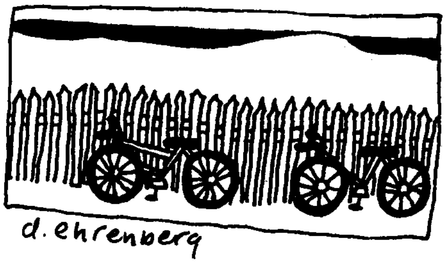
Mr. Barr: No tricky questions.
Mr. Gilbert: There is no trick here, Tom. . . .
Mr. Barr: Counsel, I pay acute attention to everything you do, for the purpose of catching the little tricks like that. . . .
Mr. Gilbert: Are you going to withdraw your statement that it is a trick?
Mr. Barr: Do you want to withdraw the question? . . . Otherwise, leave it all in.
Mr. Gilbert: We will leave it all in. It is an insult.
Mr. Barr: You have very thin skin. You ought to get over that if you are going to be a trial lawyer.
Mr. Gilbert: Mr. Barr—
Mr. Barr: You get insulted too easy.
Mr. Gilbert: I don't think so.
Mr. Barr: You have too many problems of that sort.

And in the last minutes, of the last day, of the Kelly deposition:

Mr. Goldstein: . . . What is your position with respect to the personnel files and my ability to examine Mr. Kelly with respect to any information gleaned from those files, which you are presently producing at your offices downtown?
Mr. Gold: . . . Mr. Kelly will not reappear here after 3:45 today.
Mr. Goldstein: Are you finished?
Mr. Gold: Yes.
Mr. Goldstein: I will telephone the judge at 3:45 or at such time as you tell me that you are closing this deposition. I think you could have told me earlier today, just as a courtesy, of your intention to leave at 3:45. But that aside, if you are going to pull this witness, in what I consider to be a complete violation of the very clear order of his Honor, which said we were to have access to the files "prior to scheduled deposition," in quotes, underlined, exclamation point, I consider that a contempt of that order. I think that this effort to construct a way to impede our ability to look at those files is abhorrent. . . . I think that is done in utter bad faith, and I say so on this record . . . I think it's an outrage that you want to practice like this.
Mr. Gold: I think, Mr. Goldstein, that your statement is so outrageous, I don't even want to grace it with an answer. . . . You have had more than your fair share of this witness' patience. You have already exhausted mine.

Mr. Gold: Mr. Goldstein, do you have any further questions?
Mr. Goldstein: Yes.
Mr. Gold: Are you willing to tell me the subject matter of those questions?
Mr. Goldstein: No, I don't believe I am under any obligation to.
Mr. Gold: It is now four o'clock. I have a meeting. . . . If he feels he needs more time with him, I remain willing to listen to his reasons when I come back for the completion of the Halevy deposition. . . . I thank the witness for his patience and time. Let's go.

And Goldstein was left, somewhat forlorn and speaking for the stenographer and for the record: "Since Mr. Gold has chosen to leave and take the witness, I am making this statement outside his presence. . . . Thank you, Mr. Reporter."



Although all this is on file, and a matter of official public record, none of it took place in the presence of the jury or the court. Nor, obviously, are depositions part of the transcript of the trial itself. And the ventilation of all this high-handedness ("I remain willing to listen to his reasons"), rudeness, and antagonism is by no means part of every litigating style. But Cravath is not the only highly respected law firm (though it is perhaps the best known) to pride itself on the almost unremitting combativeness of its attorneys—who may be mild, kind, even poetic creatures outside their working lives. ("It's like having a pack of Dobermans, who are clamoring to be unleashed," a major client of the firm's real-estate department once said admiringly. "I happen to prefer to avoid conflict, but it's reassuring to know I have this pack I can unleash.") Throughout these depositions, however, one cannot escape (as Halevy might have put it, in his Memo Item) "the feeling" that the Cravath depositions were conducted, in part, to reflect the bullying standard, and to be read each night by other attorneys from Cravath. (Indeed, when a less important attorney from the firm, Ellen Oran, spent a relatively civil day at a deposition with her counterpart, Andrea Feller, from Shea & Gould, one could not help noticing the contrast between that day's conduct and Ms. Oran's participation in depositions when male attorneys were present, which was as rude as any of the others had been. It was as though someone at the office, in the evening, might accuse such an attorney of having failed the standard, a failure that would be quickly compensated for the following day.) Later in the case, on the other hand, one could not escape the feeling that Shea & Gould's case, as it was waged in *court*, was conducted in part to be read by, and to please, General Sharon. These feelings would be of almost no importance were it not that both tactics, both audiences, both styles of legal conduct literally produced the outcome of the case: Cravath's almost mindless aggressiveness triggered a reaction from the government of Israel (which was clearly disinclined at the outset to help this private plaintiff, who had well-known political aspirations of his own); and Shea & Gould's perhaps equally unconscious playing to its client led it to make certain arguments in his praise and his defense, and to neglect several of its strongest arguments, probative of actual malice (in particular, concerning two unusually audacious last-minute claims by Halevy about his putative "notes" and "sources," and such discrepancies as the one about departure dates). Evidence of "recent fabrication" is considered probative of actual malice. On the other hand, Gould's sole purpose in taking on the case had always been just to prove falsehood. And "clearly and convincingly" is the highest standard of proof in civil law. "It never lay within our horizon, within our vision of the case," he once said to a reporter, "that we could leap the last hurdle. I can't prove everything that is." In any event, the mini-trial, which is the set of all completed depositions, showed a pattern of tensions of another kind.

For Duncan and for Kelly and, in another way, for Halevy, the tension was fundamentally internal, intra-office, intra-collegial—between being witnesses who best served the interests of the case and being good at, or even having done, their jobs. If Halevy *had* seen the "notes," or "minutes," of the Bikfaya meeting; and if he *had* been shown them by the "official notetaker" from the Mossad; if, among the other "sources" for his story, there *had* been an "Israeli general;" and if he *had* confirmed with reliable "sources" that his original story was contained in Appendix B; and, finally, if the only impediment to his naming the "notetaker," and the "general," and the others (and the only justification for his invocation of the shield law) *had* been the understandable need to protect their identities, then Halevy's conduct as a reporter would, of course, have been exemplary. The difficulty, one difficulty, anyway, was that all these characterizations were specific enough to constitute, in effect, a waiver of the shield. The government of Israel, from whom it was theoretically necessary to conceal these "identities," would surely be capable of ascertaining, for example, who the "official notetaker" of Bikfaya (or, for that matter, the "Israeli general" who so readily disclosed national secrets to someone as conspicuous as *Time's* correspondent in Jerusalem) actually was. And if Kelly, as bureau chief, had not simply trusted Halevy's characterization of his "sources" (if Kelly, that is, had not been only a relatively helpless foreigner, unfamiliar with the language or the country, and dependent on Halevy's word), if he had had some independent knowledge, or some inkling of who these alleged "sources" were, he might have been an exemplary Jerusalem bureau chief. And Duncan, in inquiring of Kelly about the "sources," and in asking for an "ongoing investigation" (which, of course, never took place), was, at the time, all one could ask of a chief of correspondents. The difficulty is that if Duncan had *not* inquired of Kelly he would have been derelict, in his own mind and in the minds of colleagues; so, beginning at his deposition, he had to testify that he did inquire, and give some indication of what Kelly said Halevy's sources were. And in the course of his testimony about this exercise of his professional responsibility he had to make admissions detrimental to *Time's* version of the case: Why did he not "follow up," to find out the identity of sources?

> In the first place, it is quite difficult, given the degree of censorship, not to say various kinds of snooping, that take place on communications inside and outside Israel. I would never ask nor expect to be answered a question like that either on the telex, or computer communications, nor on the telephone.

Also,

> . . . Mr. Kelly is . . . a very experienced news executive who was well aware of my concerns, well aware of his own concerns on this. We had discussed these matters before.

Also,

> I also recall that there was discussion of someone who was at the meeting. I do not recall whether the someone who was at the meeting was the first source who was characterized to me or not to me, that is not ruled out in my mind. That first source might have been at the meeting. Then there was also discussion of other corroborating sources. . . .

And,

> Q. Do you recall that Mr. Kelly was telling you that, as an additional source for the information, Mr. Halevy had spoken with someone who claimed to have been at the meeting and who corroborated the information in the item?
>
> A. I have that general recollection, but I believe that to be true. . . .

That is, when Duncan was at his most professional, and apparently most truthful, he said (1) that no one in his right mind could be expected to discuss secret matters on the phone with or within Israel, and (2) that he relied on Kelly's accounts of Halevy's characterizations of the "sources" for the story—including those which proved at trial to be unfounded. (Even Halevy never claimed, for example, at the trial that any of his "sources" had been, or "claimed to have been," at the Bikfaya meeting.) Thus, in truthfully confirming Kelly's account of Halevy's characterization of his "sources," Duncan had, inescapably, to imply that, at the time, Kelly had been misled. When he was being less than truthful (about, for example, the personnel file, and the history of a story about Begin's health, which *Time* had subsequently to retract), that is, when he was trying, as a witness, actively to protect or to advance *Time's* legal case, his testimony was even more detrimental to it, in that his deposition testimony, and the personnel file, and the Begin health story came back to impeach his credibility at trial. In his efforts, against all the sounder journalistic instincts, to oblige *as a witness*, Duncan made, midway through his deposition, what was, in the peculiar circumstances of the case, a strange, sophistical argument:

> Q. . . . I would like you to look at the last sentence, which reads "Sharon also reportedly discussed with the Gemayels the need for the Phalangists to take revenge for the assassination of Bashir, but the details of the conversation are not known." Does that sentence reasonably allow for the interpretation that General Sharon encouraged the massacre?
>
> A. No, it doesn't say that.
>
> Q. I have not asked you if that's what it says. My question, sir, is whether one can reasonably interpret that to mean that General Sharon encouraged the massacre?
>
> A. No.
>
> Q. Might not a reader construe it to mean that General Sharon approved or encouraged the massacre in the course of this discussion?
>
> MR. SAUNDERS: I object to that question on the ground that it is wholly hypothetical. You have not described what you mean by "a reader." You may answer the question. . . .
>
> A. I don't believe so. . . . I believe that a reader has no more reason to believe that than the reader has to believe that Minister Sharon attempted to dissuade the Gemayels from taking revenge. . . .

The objection, of course, was frivolous (and in violation of the judge's order); but it gave the witness time to think. And Duncan went on to say that he was sure that all the other people who worked on the paragraph, and every reader of it, would agree with him: that "discussed the need to take" could, in this instance, mean "attempted to dissuade from taking." This was an argument that not even the lawyers tried to make.

Kelly's deposition, however, was the next in sequence; and Kelly, in accordance with Cravath practice, had read Duncan's deposition. (Another litigating style assumes that witnesses testify more freshly and honestly when they have not read one another's depositions.) And, sure enough:

> Q. Do you understand [the sentence] to mean that Ariel Sharon approved the taking of revenge by the Phalangists for the assassination of Bashir?
>
> A. No . . . On the contrary, I think you could also read it that it was discussed with him and he may have tried to dissuade them from taking revenge.

It is an illustration of the contortions through which a lawsuit can put its witnesses that a sentence in a paragraph explicitly and demonstrably based on a telex that bore the headline "Green Light for Revenge?" (and that included the sentence "He also gave them the feeling, after the Gemayels' questioning, that he understood their need to take revenge and assured them that the Israeli army would neither hinder them nor try to stop them") should be interpreted by two witnesses, in the profession of journalism and under oath, as possibly describing, to a reasonable reader, an attempt to dissuade. For Kelly, at his deposition and at trial, the tension between having been, within certain limits, an effective bureau chief and trying actively, as a witness, to advance *Time's* interest in the case, the tension, in other words, between his professional and his legal person, was most acute. Also, of all the *Time* witnesses he showed the most pronounced inclination toward a certain honesty, humility, and even capacity for doubt. "I think you always or occasionally look back at stories," he said, to his eternal credit, in answer to a fairly general question, "and wonder, you know, 'Is this really right?' " It is surprising, in reviewing the testimony in these cases, how something, anything, with the ring of the *authentic* seems to leap out of the page. Halevy, for example, testified that at the funeral of Bashir Gemayel, the Phalangists, beside themselves and half refusing to believe that he was dead, were chanting, "Allah, Lubnan, Bashir, Wa bas" (God, Lebanon, Bashir, that's all); and for one moment, a brief, perhaps, for all one knew, misguided moment, something *rang true*, something electrifying, as though someone had walked over the grave of Bashir Gemayel or of a certain kind of "investigative journalism" in our time. Kelly had to support Duncan's account of their phone calls and of what Kelly had said about Halevy's sources. If Kelly had made no inquiry of Halevy about the "sources," Kelly would have been derelict in his professional duty, so he had to testify honestly about at least these things: ". . . Mr. Halevy said he had seen the notes;" "As I recall, Mr. Halevy said he had been shown the notes."

> Q. Did Mr. Halevy tell you whether the notes had been prepared by someone who had been at the condolence call?
>
> A. My understanding is that he did.

> A. . . . I said, "We really have to find out what is in section B, Appendix B." Mr. Halevy replied, "I know one thing that is in it: my Memo Item from December."

And:

> Q. Do you know whether the notes that Mr. Halevy told you that he saw of the condolence call were Mossad notes?
>
> MR. GOLD: Answer "yes" or "no."
>
> A. I assume they were Mossad notes. . . .

The reason Gold interposed the instruction "Answer 'yes' or 'no' " was to coach the witness to confine his answer to the narrow question, whether he *knew* whether the notes Halevy said he saw were Mossad notes (and then, in response to the question whether Halevy had told him that they were, to invoke the shield). But Kelly ignored the instruction (which was, in any event, another violation of the judge's ruling), and answered the question forthrightly. Kelly's was the most overtly "coached" of all the depositions, so much so that Goldstein was constantly on the verge of calling the judge to complain of "improper consulting." But Kelly frequently ignored even the most direct hints to him by counsel. As for the rote, or catechism, of previously published "sources" (Sharon's public testimony in October of 1982; the Kahan Report, as published; prior articles in other publications), he was either too honest or he simply couldn't get it right. At the same time, Kelly wanted to convey the impression that, as bureau chief, he

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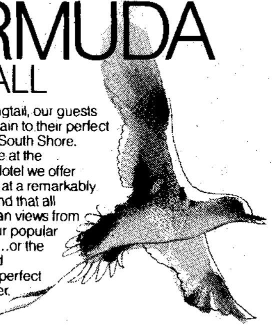

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had not had to rely *only* on Halevy's word about his "sources," that he had some independent knowledge of his own. Thus, Kelly's were among the most frequent invocations of the shield.

> I am a little fearful if I give you an answer one way or the other, it could jeopardize the identity of the source.
>
> I think there we get into a problem of disclosing the identity of the source.
>
> I did discover one more piece of information, but to explain it any further would jeopardize the identity of the source.
>
> I am unwilling because it would jeopardize the identity of the source.
>
> I am afraid to explain or to tell you; that would jeopardize the identity of the source.

And the reason for this ritual invocation was an odd one. Kelly, as is apparent from his other testimony, simply did not *know* who the sources were:

> A. No, I didn't. I figured I wouldn't know who it was anyway, by name.
>
> Q. You mean you are unwilling to tell me the source?
> A. I am not only unwilling, but I can't remember the man's name.
>
> A. I never heard of the man in my life.

The apparent reason for the inconsistency was that Kelly wanted people (colleagues, perhaps even himself) to believe that he *knew enough* to invoke the protections of the shield. There was also the matter of support and deference, within the magazine's own hierarchy. Thus, at trial, Kelly said, several times, that he himself "may" have added the words "for Revenge" to Halevy's "Green Light"—when Halevy had already admitted, in contradiction to his deposition testimony, that he had written them himself.

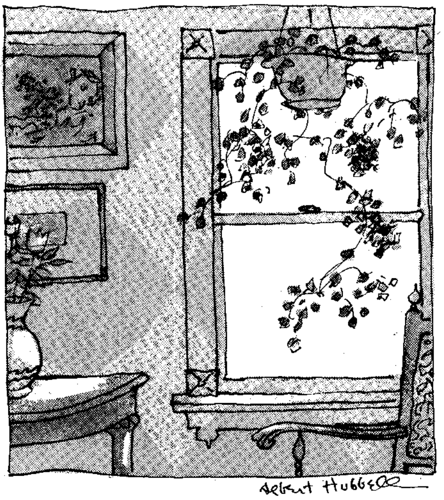
Something more difficult to understand seems to have made Kelly incapable of even the most elementary consistency regarding his professional obligations, Israeli secrecy law, and Appendix B. "I don't know all the contents of Appendix B," he said (in what may have been the understatement of the entire case); and he also repeatedly insisted that Ehud Olmert, a member of the Knesset Defense and Foreign Relations Committee (who had told Kelly that *Time's* paragraph was wrong), had not claimed to have read "all" of Appendix B when he told Kelly there was no "revenge" discussion in it. Apart from the inherent implausibility of this (how could Olmert have claimed something was not "in" something he had not read "all" of?), Appendix B turned out to consist, it was revealed in the trial's last days, of just twelve pages. And the fundamental inconsistency in Kelly's whole testimony about it was this: when people attempted to tell him what was (or, more precisely, what was not) in Appendix B, he claimed he could not trust them, because "the findings were secret, and it was illegal for them to describe to me what was in Appendix B." It would, of course, have been more than equally "illegal" for them to "describe" what was in the appendix to Halevy. Kelly seemed incapable of grasping that, while it may be illegal to describe what is "in" a secret document, it can scarcely be illegal to describe what is not "secret;" namely, what is not "in" the document at all. But:

> Q. Did you understand at the time you wrote Take 9 that Appendix B was a secret document under the laws of the State of Israel?
> A. Yes, I did.
> Q. Were you concerned that by sending Take 9 to New York, you were violating laws of the State of Israel . . . ?
> A. No, I wasn't concerned . . . [it] was available to the censor. They saw it and if they wanted to eliminate it, it was in front of them.

And yet:

> Q. Did you consider whether or not your Take 9 should be submitted to the military censor for his review prior to its being sent from the Jerusalem bureau?
> A. No. Because this take was plainly written from public information, the Kahan Commission Report, and the censor doesn't require you to submit that kind of news material.

This last was obviously the lawyers' answer (that the paragraph was merely a reprint of other documents already published), and it made the position of Kelly essentially this: that Halevy had obtained the information from "sources" so secret that Kelly, who did not know them, nonetheless invoked the shield law to protect them, in other words refused, on shield-law grounds, to tell what, as it happened, he did not even know; that, since disclosing the "secret" information was illegal, Kelly could not trust any "sources" who would disclose similar (or, as it happened, conflicting) information to him; that telexing the "secrets" for publication was not, however, illegal, because otherwise the censor would have stopped it; but that there was no need to submit it to the censor, because the "secrets" it would have been illegal to disclose to Kelly were already "plainly" public information anyway. The chimerical, also real, Israeli censor was to play an important role both in Halevy's deposition testimony and at the trial. The one thing that seemed never to have occurred to Kelly, or to any other defense witness, was that the censor might have (in Kelly's word) "eliminated" the material if it really were a national secret, but that it was not a national secret (and was therefore not eliminated by the censor), *because it was not true*. Another thing is striking about Kelly's deposition, with its extraordinary density of "I don't recall"s. His recollection of the phone call, or calls, with Duncan concerning whether he was "comfortable" with the sources, and of agreeing to an "ongoing investigation," differs significantly from Duncan's as to when the call, or calls, occurred. Kelly was, from every indication, the defense's most honest witness. It rang true, for example, when he testified that, on the long flight from Tel Aviv to New York, he and Halevy had not discussed the case (or, rather, that Halevy had broached the subject and Kelly had said, "We don't talk about it, buddy"). Yet, as to the timing and the content of what transpired with Duncan, his memory is at its most vague. And, from the record, in its entirety, it is by no means clear that whatever conversation about "sources" and an "ongoing investigation" occurred, occurred at the time of the Memo Item, or any time before publication. The uneasy likelihood, on the basis of the record, is that no such conversation occurred at all—until after Sharon filed suit.



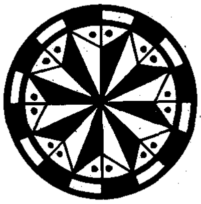
THE deposition of David Halevy was remarkable in so many ways and differed so radically from his testimony at trial that plaintiff's attorneys, clearly unable to keep up, or to select, or to compress, tried, unsuccessfully, to enter all eight hundred pages of it, intact, into the transcript of the trial. Down to the minutest detail—

> Q. Do you recall the first time that you saw the headline "Green Light for Revenge?"
>
> A. . . . The first time I saw that was after the lawsuit. . . .
>
> Q. Subsequent to the publication of the article entitled "The Verdict Is Guilty"—
>
> A. I don't know of any article by that time. . . .
>
> Q. Would you take a look at 0618 of Halevy's Exhibit 16.
>
> A. Yes.
>
> Q. Do you know what this article is?
>
> A. Yes. It is part of the cover story "Verdict on the Massacre."
>
> Q. Do you know whether or not the article has a headline?
>
> A. I see a headline.
>
> Q. What is that headline?
>
> A. It says "The Verdict Is Guilty."
>
> Q. Have you ever seen that headline before?
>
> A. Not to the best— I mean, I probably saw that, but I don't remember that headline.

(One thing that readers of most newspapers, and many other publications, have no way of knowing is that the writer whose name appears in the byline was in no way responsible for, was not even consulted about, the headline that appears above his piece. But that is not the sort of disclaimer Halevy was making here.)

> A. . . . Here comes the commission report. And, in essence, it says, in a very ego-minded, very ego-sided, pointed side of view: "Whatever information you learned, Mr. Halevy, is true, but there is more, much more."
>
> Q. That "more" is contained in Appendix B?
>
> A. Yes, some of the "more" is contained in Appendix B.

Halevy's deposition testimony showed not so much a breathtaking disregard for what was and what was not "exact" or "accurate" or "true" as a genuine inability to tell the difference. By the time of the trial, of course, he testified that the headline "Green Light for Revenge?" had been his own. The headline "The Verdict Is Guilty," at his deposition, was right there before him, in the magazine. And no "more," and no Memo Item, was contained in Appendix B. But by the time of the trial Halevy's testimony presented a whole new set of "facts": an entirely new, vitally important "source," for instance (Israeli "General No. 2"), who both gave him the information in his Memo Item of December 6th and "confirmed" to him that the substance of the Memo Item (the "revenge" discussion at Bikfaya) was in Appendix B; and also an entirely new set of official "notes," or "minutes" (of a meeting, apparently on September 12, 1982, between Sharon and Bashir Gemayel), some of which Halevy actually claimed, at trial, *to have in his possession*, and offered to produce. Both claims, but particularly the second, came as an enormous surprise, even (as the defense in Westmoreland would have put it) a bombshell, to the courtroom, the judge, and Halevy's and *Time's* own counsel. The meeting between Sharon and Bashir Gemayel on September 12th was in a sense irrelevant (since Sharon could hardly have discussed the "need to take revenge for the assassination of Bashir" *with* Bashir, two days before the assassination, and three days before the meeting described in *Time's* paragraph, took place); but that meeting was, for other reasons, of considerable historical interest and importance. And if Halevy had even seen the "notes," let alone possessed a copy of them, it would have been an immense reporting coup. Within days, however, it emerged that the "notes" to which Halevy had referred so cavalierly and yet stunningly in court were notes of another meeting, at an earlier time, between other people entirely; and, also, that Halevy did not have them, or copies of them, either. But the initial claim, under oath, in court, was, if false, of such astonishing audacity that the court, Judge Sofaer, both counsel, in fact everyone, believed it. And when it turned out to *be* false, Sharon's attorneys (in what turned out to be one of Shea & Gould's infrequent lapses) actually *forgot to mention it in their summation to the jury*. (Or perhaps chose not to. The summation, which was in other ways brilliant, had to focus the jury's attention on the overriding question of the paragraph's "clear and convincing" falsity.) It was almost inconceivable that a witness would risk, in such a trial, in federal court, a false claim to possess important "notes." That he should be believed, and then, when it emerged that the "notes" did not exist, that opposing counsel should fail to call their nonexistence (with the clear inference of recent fabrication) to the attention of the jury, gave one some indication of the measure of the witness's ability to disorient, and even to derail, judgment—and, perhaps, of the reporter's capacity, in that earlier episode of "notes," with which the Memo Item and the case began, to disorient, *in precisely the same way*, his bureau chief and all the other folks at *Time*.



In any event, in all four and a half days of his deposition, Halevy alternated between refusals, under his own interpretation of the shield law, to answer questions and the improvisation of answers, often of great length, which were or as often were not responsive to any question he was asked. (When Gilbert, conscious, on a particular afternoon, of Barr's intention to withdraw his witness at four o'clock, said, "I am simply trying to ask the witness to help me along in the sense of limiting his answer to 'I don't know' if the answer is he doesn't know," Barr said, "I am going to tell the witness he should answer the question as he sees fit." Gilbert: "To the extent you can do it with brevity, it would be appreciated." Barr, with obvious amusement: "I agree with that, too. But he is a very brief and concise man, and we ought to let him continue to do so.") In his most expansive and loquacious mode, however, Halevy, seeming to elude even Barr's control, ran, in at least three ways that were to recur to *Time's* detriment at trial, amok. First, in that fundamental and persistent question of the Bikfaya "notes": Halevy simply could not bring himself, at his deposition, to admit that he had not read them. To any variant of the question whether or not he had seen or read the Bikfaya "notes," or "minutes," his replies became senseless, or even idiotic: "Any answer on my behalf to your question will already bring you into the area of the very limited number of people who read and dealt with the minutes of that meeting;" "Any answer I'll give you now will be a breach of my previous answer;" and so forth. Halevy, in other words, meant to imply by these answers that he *had* read the "notes," or "minutes." An answer to the effect that he had *not* would not bring anyone into "the area of the very limited number" of people who had access to them but, rather, into the limitless number of people who had none. Since the remote possibility existed that, sometime in the course of the trial, the "notes," if any existed, might actually be published, Halevy's, and *Time's*, lawyers had obviously instructed him, very firmly, to say that he had not seen them; but in this he could not quite accommodate the lawyers; his pride or his vanity was at stake. In that same tension between being an exemplary reporter, who would have the fullest possible knowledge of the "notes" before rushing into print about them, and being a forthright witness, who would admit that he had not the slightest knowledge of the "notes," he could not bring himself to make the sounder choice. Even fairly late in the trial, his admission was not unreluctant:

Q. Mr. Halevy, did you ever actually see the notes of the Bikfaya meeting?

A. You are asking if I ever saw the notes of the Bikfaya meeting prior to my composition of the Worldwide Memo, at what time, at all?

Q. At any time.

A. No, sir.

Second, in the matter of *how* Sharon "gave [the Gemayels] . . . the feeling that he understood their need to take revenge . . . and assured them that the Israeli army would neither hinder them nor try to stop them," Halevy gave incompatible answers, to the effect that Sharon did so in words ("Mr. Sharon made a statement to the Gemayel clan. . . . I think it was more in the sense of a sentence, of a statement. I can't recall it"), and not in words (" 'Gave them the feeling' could be a body movement, could be silence, could be a non-outspoken rejection of their raising the issue, and could also be indifference to the fact"). This second answer provided such a novel interpretation of how a Minister of Defense "gave" the surviving members of a foreign leader's family "the feeling" of all the things it was meant to impart the feeling of (and such an extraordinary basis for a paragraph that read "discussed . . . the need for the Phalangists to take revenge") that it caused Gilbert to emphasize, for the record ("Can I have that read, please"), what had just been said, and Barr to interrupt. But the exchange continued:

Q. At the time that you wrote the words "gave them the feeling," did you have an understanding that those words could also be read as meaning a verbal communication between Sharon and the Gemayels?

Mr. Barr: I object to the form. Go ahead.

The Witness: A verbal communication, no. . . .

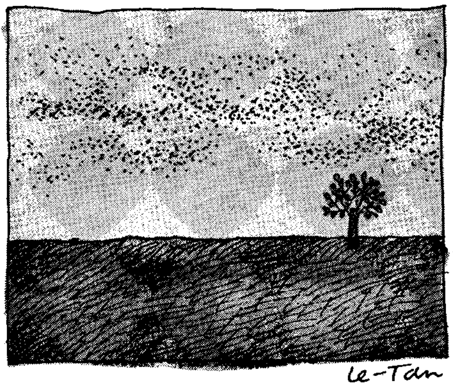
A. . . . Mr. Gilbert, if I will look at you now—

Q. I understand.

Mr. Barr: Let him answer the question.

A. —with flying eyes and an angry face, and won't say one insult, you will definitely understand that I am angry like hell. This is giving a feeling that I am angry at your form of questions.

It was, of course, inherently absurd that the "official notes" (or any "notes") would record not one word of what was said but what "feeling" was "given" at a meeting. So was Halevy's contention that the whole passage, no matter how it was read, was not "of and concerning" Sharon at all but "puts the direct blame on—especially on Lebanon's President, Amin Gemayel." ("I think this Memo is rather clear, as far as I'm concerned, and the heading is rather clear.") The chimerical "censor" made several appearances in Halevy's testimony, exercising an "extraterritorial" authority, which permitted the witness to characterize as "secret" (and to decline to answer) certain questions for which he did not feel inclined to invoke the shield. Halevy's other contention, that the Hebrew word for "among us," in Sharon's public testimony in October of 1982 ("The word revenge also appeared, also I would say, in discussions among us"), could not mean "among Israelis" but must mean "with the Phalange or with Lebanese officials," led to the most dramatic, in fact the pivotal and final, testimony at the trial. But the third major issue in Halevy's deposition, which was to reverberate, like the "gave them the feeling" *definition* ("could be a body movement, could be silence, could be non-outspoken rejection of their raising the issue, and could also be indifference to the fact"), throughout the trial itself, had to do with Halevy's own handwritten "notes," the very "notes" he claimed to have taken about his communications with his "prime sources," and on which he based the Memo Item, which, in turn, led to *Time's* paragraph. Fairly late in his deposition, he embarked on what turned out to be a fateful exchange concerning the circumstances under which he took those "notes."



Q. Do you recall the circumstances under which you wrote these notes?

A. No.

Q. Do you recall where you were at the time you wrote them?

A. No.

Q. Do you recall if you were having a conversation with any of your sources at the time you wrote them?

A. From the ample fact that the name of source A . . . and another source appear here, it's probably notes I took after I finished two meetings with these two sources.

Q. Do you recall whether you made these notes at the time of the meeting with them or after?

A. I believe, after.

Q. Did these contain notes from one meeting or more than one meeting?

A. No. The fact that there are two names attached to the notes indicates, as far as I'm concerned, that I had two meetings with two people, and I quickly after the two meetings took notes; wrote them probably *in the car* and carried on.

Halevy went on about how the car had affected his handwriting, and about the important sections deleted by the censor. Which? "No idea." Then:

Q. Do you recall when the meetings occurred in relation to each other?

A. No. I would say they happened one *after the other, but this is my best guess.*

It does not require a professional journalist to detect that what Halevy was describing (or not describing) was not a genuine recollection of any known journalistic method—and Barr interrupted, with some distracting remarks about a minor difference between Cravath's and Shea & Gould's calculation of the witness's per-diem and travel expenses. The above colloquy was, however, to recur at the trial, to somewhat devastating effect, in that Halevy never again claimed to have received information from these "sources" at meetings of any kind—or to have taken notes, for that matter, in a car. (Deposition: "Q. Was it a telephone conversation. A. No.") At the trial, he said that he had received all the information, from "confidential sources," on which he based those notes by telephone.

A. Yes. I think Minister Sharon had between eight to twelve meetings with Bashir Gemayel and his staff and the military and political council of the Phalangists.

Mr. Barr: How did you know that? What is the basis of your knowledge?

A. Basically confidential sources, basically notes and minutes . . . which *were given to me* by the people who participated or took the minutes.

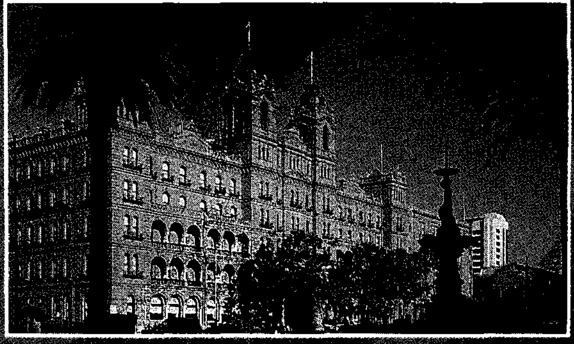
Q. You actually saw minutes of those . . .

A. Yes, in some cases I did.

It would seem that chief counsel for

Time had become as credulous as *Time's* bureau chief Kelly had been, in composing the telex that became the basis for the paragraph in the lawsuit. The claim, on Halevy's part, of having *seen* notes, or minutes, seemed after all not unfamiliar. But this time Halevy was ready to go further:

> Mr. Barr: We are now at the point where the witness is about to say what his point is, your Honor. Go ahead, Mr. Halevy.
>
> A. And I *had in my possession* a document in those days which were the minutes of a secret meeting, or the notes of a secret meeting, between General Sharon and Bashir Gemayel . . . at the house of a high ranking Lebanese intelligence official. . . .
>
> The Court: Is this a source? It wasn't a source, was it? This is something he just didn't talk about at his deposition, is that right?
>
> Mr. Gould: Nothing at all about it. . . .
>
> Mr. Barr: Your Honor, I offer to prove the witness will testify . . . that he had seen a set of notes of a meeting between the plaintiff and Bashir Gemayel, at which time the words were spoken which indicated that the plaintiff was aware that killings had taken place on those occasions and that he was discussing that subject with Bashir. Enough?
>
> Mr. Gould: There was no mention of this meeting in the deposition.
>
> Mr. Barr: And there were no questions addressed to it either.
>
> The Court: I don't think you can say that, Mr. Barr.
>
> Mr. Barr: I can't?
>
> The Court: I mean, you can argue that. That will be for the jury to decide, whether he was fairly asked questions that would have led to the disclosure of something so obviously and patently relevant to what he claims he believed when he wrote his story. . . . You mean to say he had these secret notes at the time of the deposition and he doesn't have them anymore?
>
> Mr. Barr: I said I don't know whether he has them. We will ask him now.
>
> Mr. Gould: Do you have the notes, Mr. Halevy?
>
> The Witness: I believe I do.
>
> Mr. Gould: Where are they?
>
> The Witness: I don't know. I will have to look for them. Maybe here.
>
> Mr. Barr: Here, meaning in the United States?
>
> The Witness: Here, Manhattan.
>
> Mr. Gould: Is there some reason why they weren't produced before?
>
> The Witness: Is Mr. Gilbert around?
>
> The Court: Let's look at this matter after lunch. Mr. Halevy will look for the notes. . . .
>
> Mr. Barr: Meanwhile, my view of the world is that he has never been asked these questions about either—
>
> Mr. Gould: I don't want to prolong the discussion, but our first request for the production of documents, August 31, 1983, Item E: "The sources employed by Time, Inc., if any, in authoring, composing or publishing the article, including but not limited to any communications between



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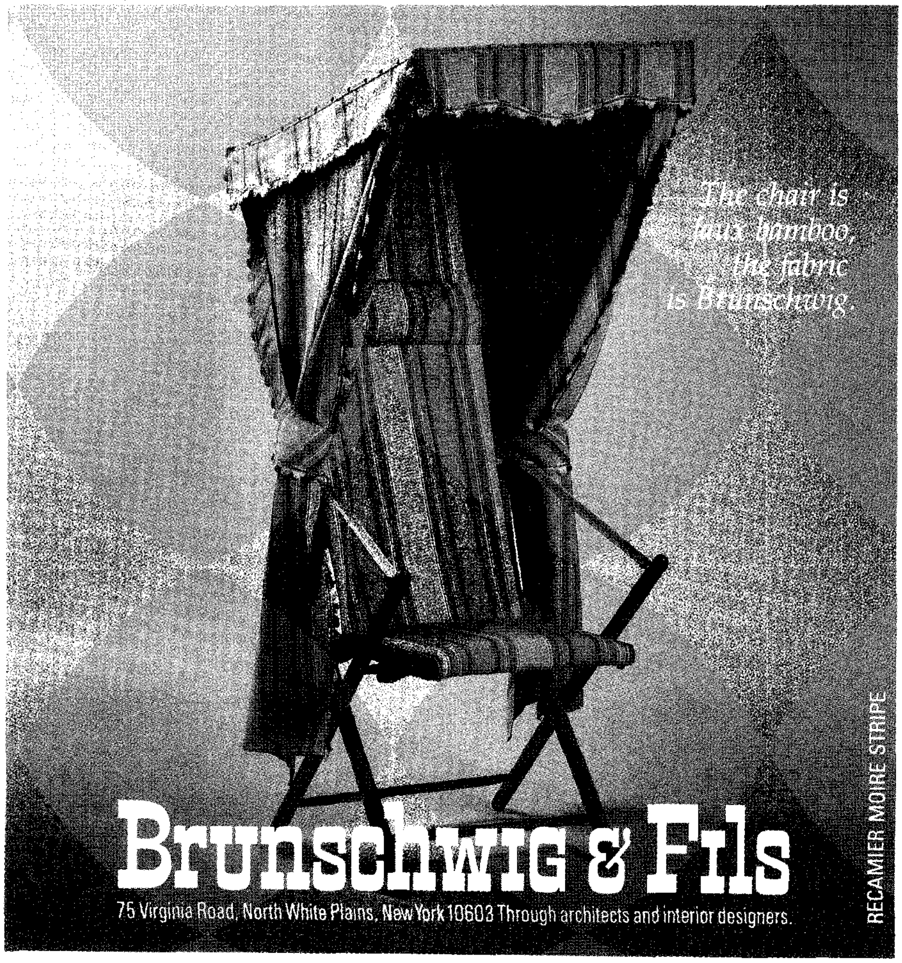

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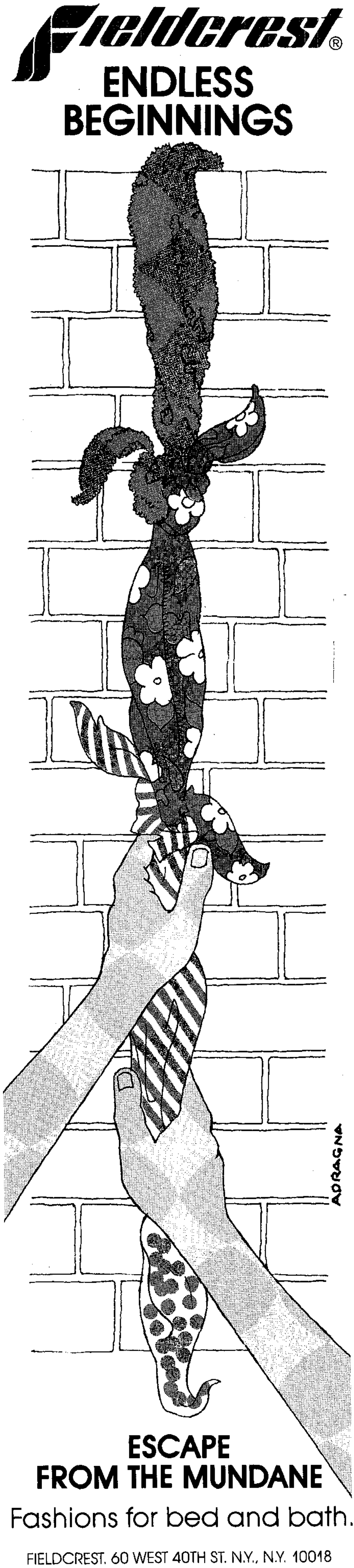
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Time, Inc., and such sources or the identity of such sources.”
Mr. Barr: That doesn't make it.

This was on December 5, 1984, the second day of Barr's cross-examination, and the first day of what became the attorneys' and the court's pursuit of Halevy's imaginary notes. But remark what has already happened: defense counsel has elicited from the witness a statement that one of the sources he relied on in preparing the story at issue in the lawsuit was “the minutes of a secret meeting . . . I had in my possession” at the time of his deposition; plaintiff's counsel, and the judge, point out that these notes were never mentioned at the witness's deposition; defense counsel actually maintains that the witness was not obliged to mention them (“And there were no questions addressed to it either”); plaintiff's counsel reads from plaintiff's *first document request*, for “the sources employed . . . in authoring, composing, or publishing,” etc.; defense counsel serenely says, “That doesn't make it.” Regardless of the merits or the legal ethics of this, all parties, like Kelly, with that earlier set of notes, perhaps; like Duncan; like the whole corporate edifice of Time, Inc., still *believe* the notes *exist*.

The Court: This is a copy of the official minutes, you say?
The Witness: Yes, your Honor.

By that afternoon, in the robing room, the judge sounds the first note of skepticism.

The Court: I would just like to say on the record that I feel that the minutes, if there are minutes, a document, must be kept here until we resolve this matter . . .
Mr. Gold: I will pursue it with him and make sure that if he has these minutes they do not leave his possession or New York.
The Court: Thank you.

By the following day:

Mr. Gould: I think we ought to make some disposition about . . . Halevy's testimony that at one time he had a copy of the minutes of the meeting with Bashir Gemayel, where we stopped Mr. Barr from going forward.
The Court: I think we should deal with it here first, though, before we go out there in front of the jury.
Mr. Gold: Your Honor, if I can address that, a number of items. Mr. Halevy has checked. He does not have the minutes he was talking about here. He does believe, though, that they may be at his home in Israel. He was not talking about minutes of the September 12th meeting between Bashir and Sharon.
The Court: We could clarify that at least.
Mr. Gold: Yes.
The Court: He was talking about one of those meetings referred to by the commission in its report?
Mr. Gold: Perhaps. It is a July or August meeting, he says.

And the judge precisely has it. Halevy, having noticed, as anyone would notice, that the Kahan Commission report quite openly mentioned a certain meeting between Sharon and Bashir Gemayel (and adopted Sharon's testimony on it as correct), simply invented, at some time subsequent to his deposition, that he had in his possession “minutes,” or “notes,” of that “secret meeting,” and had relied upon them as a source. Where were these minutes? “Here, Manhattan.” Later, maybe “at his home in Israel.” Daring and even brazen as this was, Halevy and his attorneys kept on improvising:

Mr. Gold: Your Honor, just for the record, I am not sure that anything such as these notes was called for by the document demand or in any of the questioning by Mr. Gilbert. The only problem I have about bringing the notes to the United States is I am certain—I am talking about Mr. Halevy—that he will want to ask the *permission of the censor* before they leave Israel.

So the thing has come almost full circle, “Here, Manhattan,” to the impediment of the censor to their leaving Israel. And by the time the circle was completed, that the notes had never existed, there had been such proliferation of invention that plaintiff's counsel forgot to mention, in his summation to the jury, that the notes did not exist.

OBVIOUSLY, not all reporters for major publications (or all witnesses, under oath) are alike; and the professional quality of reporters is not always or accurately reflected in their persona as witnesses. The distortion brought on by lawsuits in the conduct of people whose very profession, journalism, consists in giving factual, truthful accounts, and whose legal and civic obligation now becomes, even more solemnly and under oath, the giving of factual, truthful answers, seemed in both Westmoreland and Sharon a somehow redoubled distortion. In a sense, the major “source” in Westmoreland was Samuel Adams (with his “chronology” and his “list of sixty”); and the distortion was exaggerated in his person, because to the truthtelling obligations of the journalist and witness he added a third dimension, or category, the giver of factual, truthful accounts as intelligence analyst. But the originator, the most key figure in the broadcast (somewhat as Halevy, allowing for enormous differences in status and personality, was the originator and key figure in the creation of *Time's* paragraph), was George Crile. The deposition testimony in Westmoreland, and the climate of the voluminous depositions themselves, was much more subdued and decorous than in Sharon, though it was, at many moments, equally bizarre. Mike Wallace, for instance, testified, under oath, on his deposition that neither he nor anyone else who contributed to the broadcast, nor any reasonable viewer of it, could construe the "conspiracy" alleged in the broadcast to have included Westmoreland.

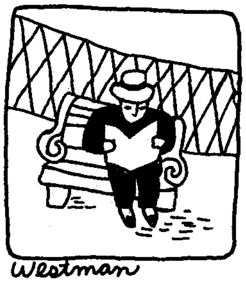
> A. Mr. Dorsen, as of the date of the broadcast, we talked about, we used the word conspiracy. At the highest levels of American intelligence. . . . William Westmoreland was not an intelligence officer. We didn't speak about conspiracy at the highest levels of the American military command. We said, at the highest levels of American military intelligence. We said what we meant.
>
> Q. And you meant what you said?
>
> A. Well put.

This testimony occurred, however, at a point when Cravath's theory of the case, as expressed by Boies in interviews, was that the program was not "of and concerning" Westmoreland at all, since, as commander of all American troops in Vietnam, he was not "at the highest levels of military intelligence." Boies quietly abandoned that theory soon after Wallace's deposition was complete. And the suit was "discontinued" before what would have been particularly interesting testimony; that is, before Mike Wallace took the stand.

Though Crile spent nearly eight days on the stand, more than any other witness (Westmoreland himself spent ten half days, Adams five and a half days), one almost unarguably important piece of evidence from his deposition was never brought out in court, and therefore never reached the jury before the case came to its abrupt, unanticipated end. In the initial phases of discovery, the plaintiff had routinely called for all documents, videotapes, and other tape recordings related to the production of the broadcast; and Cravath had routinely (but with an objection to turning over the result of CBS's internal investigation, the Benjamin Report, until directed to do so by the judge) turned over all documents, videotapes, and other tape recordings that it had received from the CBS defendants, including Crile. One witness, however, Ira Klein, a young film editor who worked on "The Uncounted Enemy: A Vietnam Deception," had testified at his own deposition that Crile's secretary had repeatedly offered to let him listen to "the McNamara tape." In response to an inquiry from Westmoreland's attorneys, Cravath reported that, according to Crile, no such tape existed, or ever had been made. Klein, however, testified that Crile's secretary had shown it to him, and spoke with such specificity of the drawer in Crile's secretary's desk in which the tape was kept that Cravath inquired of its client once again. Crile then discovered not only "the McNamara tape," of which one side had been, he said, inadvertently erased, but tapes he had made as well, without their knowledge, of phone calls with, among others, Maxwell Taylor, Arthur Goldberg, and George Ball. When asked, at his deposition, why he had not turned these tapes over in the first place, Crile testified that he had forgotten he taped those conversations. Attorneys for Westmoreland found, as they listened to the tapes (which Cravath, as was its legal obligation, had turned over), that the various recordings were linked by a sort of narrative in Crile's voice. They decided to submit them for examination to Mark R. Weiss, then a professor at Queens College, who had been a member, just ten years before, of the panel of experts who analyzed the tapes of President Richard Nixon, to explain, if possible, the eighteen-and-a-half-minute gap. In his study of Crile's tape recordings, Professor Weiss found that one of the set had been re-recorded at least once, and showed traces of at least seven distinct erasures, or gaps, of its own.

The whole matter, of course, shed no light whatever on whether or not Westmoreland had led or participated in a "conspiracy" to deceive the President and the Joint Chiefs. The issue of the defendants' credibility, however, was of critical importance in the trial. Plaintiff's attorneys found it difficult to believe that Crile could have forgotten *both* that he made the tape recordings (having assured the participants that their remarks were informal and off the record) and that he subsequently re-recorded the same conversations, deleting certain sections and linking the rest by a small narrative of his own. What the jury, with its yellow pads, would have made of this will never be known. Burt himself forgot, as Crile was running away with other questions, to ask Crile about it. And the case ended without the matter having been raised in open court. (In any event, from the moment CBS learned that Crile had secretly recorded conversations, and initially denied their existence on discovery, it "suspended" Crile, and decided that its legal interests and Crile's were no longer identical. Crile retained counsel of his own. Boies, however, treated the whole case as one. And Crile's attorneys, though they were paid by CBS, and participated in all defendants' briefs and motions, and though they appeared each day in court, and were admitted to all bench conferences, took no part in the actual conduct of the case. Or, rather, Victor Kovner, the chief counsel among them, took the stand and played the role of witness—reading the answers to Boies' questions, when the actual witness did not appear in court; and only the questions and answers from his deposition were thus read before the jury and into the record of the trial. From this point of view, as from so many others, the sheer waste of time, quite aside from the waste of money, in an American lawsuit can resemble something out of "Bleak House." And in both cases it sometimes seemed that somewhat better educated and more energetic refugees from "Bleak House" were litigating on behalf of somewhat more righteous and less harried refugees from "Scoop.")

It may be that one's impressions of the noncriminal government witnesses at the time of Watergate did those witnesses an injustice, in that unusual institutional processes and unaccustomed facets of personality are brought to light when powerful interests appear before the courts. The press, in particular, is accustomed to ask, and not to answer; to engage in, and not to submit to, scrutiny; to make or imply judgments, and not to be called to account. Generals, too, are used to the special prerogatives of power; but the generals in both cases not only faded, they seemed highly courteous, and even timid, in contrast to the mass-communications press. In a sense, the CBS defendants were not "press" at all: they took a thesis; found witnesses more or less to support it; interviewed those witnesses, and cut those parts of the interviews which did not support the thesis; found the arch-villain, according to the thesis (and cut to those moments when he looked angry, shifty, ill at ease), and one of his supporters, Colonel Danny Graham (whose interview they cut to twenty-one seconds); rehearsed and re-interviewed some friendly witnesses; found reasons not to interview other witnesses, who had information that would undermine the thesis; composed a script for Mike Wallace, in his adversarial style, to grill some witnesses and coddle others. In short, they were acting not as press but as producers and directors casting for a piece of theatre; and that theatre was a court. But the broadcast was created and advertised by CBS News, and claimed all the authority and authenticity that "news" (particularly television news) implies.



By the time the depositions in Westmoreland were completed, it could be said of Crile's decisions in creating the broadcast what Judge Leval said of one of the more egregious instances of splicing an answer on to an unasked question: "It is what it is, and it's visible to everyone . . ." It was not, however, "visible to everyone" *until* the depositions, and even then the "everyone" was only the attorneys and the litigants. Among the program's problematic judgments were: an account of a private, critical briefing of Westmoreland, by Hawkins and McChristian, which never took place (there were in fact three and possibly four separate briefings, none with just those three participants, and none of which corresponded to the program's account); an account of a single meeting between civilian and military intelligence analysts, at which C.I.A. participants "capitulated" to the "dishonest" military estimates (when there were in fact three meetings; the C.I.A. "dictated" the estimates that were agreed to; and the military estimates were honestly arrived at, and proved fairly accurate); in the end (and most significantly), an account of enemy infiltration into South Vietnam in the five months before Tet, which explicitly accused Westmoreland of having suppressed and vastly understated the rate of infiltration, when in fact Westmoreland not only had not but *could* not have misrepresented the figures, since the rate of infiltration was being accurately monitored, by what was referred to throughout the trial as Source X (the National Security Agency), and the "estimates" thus came not from Westmoreland's command at all but from Washington, before they ever reached Saigon; an account of a meeting between President Johnson and some of his closest advisers, the Wise Men (known more formally as the Senior Advisory Group on Vietnam), which portrayed none other than Sam Adams as the hero, in that the Wise Men, having finally accepted Adams' estimates of enemy troop strength, told the President that the war, after the American defeat at Tet, was hopeless (when in fact the advisers did not consider estimates at all, and regarded Tet as an immense American military victory, but told the President that American morale at home would not support continuation of the war). And there was more: six of the eight persons the program portrayed on the broadcast as more or less supporting the program's thesis explicitly denied, in portions of their interviews that were cut, that intelligence was suppressed, that there was a "conspiracy" of any kind, that any data base had been dishonestly "altered," or that President Johnson had not been informed of all aspects of the controversy. A seventh (Hawkins) said that he had had a "total memory block" about the events in question, until he had been "helped," over many interviews, by Crile and Adams. One (McChristian) said, in a sworn affidavit, that the editing of his views had been "improper." Another (George Allen, of the C.I.A.) was not only shown, in the editing room, other interviews before being re-interviewed himself; he was asked literally the same question seven times, before Crile found an answer he liked. And so on. "There isn't such a thing as an honest intelligence report; there's my view and somebody else's," one of the eight, Commander James Meacham, said in a part of the interview that wound up, typically, on the editing-room floor; also, "I understand perfectly well what you're trying to say. . . . I don't agree with it." Before the trial began, the litigants also had such documents as the sworn affidavit of Meacham (now the military correspondent of *The Economist*), which read, in part:

> Based on my knowledge, the CBS Broadcast "The Uncounted Enemy: A Vietnam Deception" falsely portrays my actions. . . . In particular, the broadcast's version of events after the Tet Offensive does not square with my memory, and before the broadcast I told George Crile and Sam Adams that their versions of those events were untrue.
>
> The Broadcast, as I recall, states that after Tet, the Chief of Current Intelligence and Estimates, Daniel Graham, altered the records or memory of the computer we used in [Order of Battle] Studies. This is nonsense for several reasons, not the least of which is that Graham was *not in the chain of command* of myself or my subordinates, *and could not order us* to do anything with the computer. Moreover, OB Studies *printed out on paper a copy* of its OB holdings each month and immediately sent that to a long list of persons in Vietnam, Washington, the Pacific Command . . . and elsewhere. *These "hard copies" of the Order of Battle were always available* for comparison at any point in time. Also, the composition of the "data base" *had nothing to do with* the method by which MACV derived its enemy strength figures before or after Tet.

And so on. And Meacham was one of the eight the broadcast portrayed as *supporting* its thesis. With some others of the eight (notably Hawkins and McChristian), CBS's attorneys managed to get stronger statements in court than they had made on the broadcast (and even statements in direct contradiction to those parts of their interviews which were cut); Boies hoped to persuade the jury that, even if the program fabricated, misrepresented, and misleadingly elided, the *result* was something near (or even an understatement of) the truth. But there could be no question (at least, once the sworn depositions were completed) that, quite apart from the fundamentally absurd thesis, at every stage and in every element of the making of the program, there was something wrong.

But, easy as it may be, in retrospect (and particularly with the evidence in a lawsuit of this magnitude), to find fault with a ninety-minute broadcast, these might all have been good-faith editorial decisions, based on a firm conviction of some kind. Crile had never been the sole producer of a program before. In 1980, as co-producer of a documentary, "Gay Power, Gay Politics," he had been "censured" by the National News Council (for editing applause into a soundtrack of a predominantly homosexual audience listening to a speech by San Francisco's Mayor Diane Feinstein, at a point when there had been no applause). In 1980, he got in touch with Sam Adams, whose article "Vietnam Cover-Up: Playing War with Numbers—A C.I.A. Conspiracy Against Its Own Intelligence" Crile had edited at *Harper's* in 1975. In the five intervening years, and particularly since the hearings of the Pike Committee, at which he appeared as a witness, Adams had been working on a book, based on his theory that the willful falsification of intelligence estimates before Tet (and the rejection of Adams' own, higher estimates) had led to the loss of the war in Vietnam. Adams had been pursuing this theory obsessively, compiling his lists and chronologies and interviewing mostly lower-echelon figures, with the exception of Colonel Hawkins (whose "total memory block" he was trying, by means of the lists and chronologies, to dispel) and General Maxwell Taylor —whom Adams interviewed for two and a half hours, and whose own book "Swords and Plowshares" seemed to rebut Adams' theory in considerable detail. Among Adams' notes for the book was one that read, "I have yet to interview the four persons still living whom I believe chiefly responsible for the falsification: General Westmoreland himself, General Phillip Davidson, Mr. Robert S. McNamara, and Mr. Walt Rostow;" also, "I plan to approach them before the book goes to press, in the hope that they will shed further light on what happened, including the extent of President Johnson's involvement." There was nothing at all (the significance of this dawned only gradually) in Adams' notes about suppression of the alleged infiltration of a hundred thousand North Vietnamese into South Vietnam in the five months before Tet.

Crile based his entire proposal, or blue sheet, for the program on Adams' research; and, besides using him as a paid consultant, writing a script for Mike Wallace to interview him (and rehearsing Adams for that interview), and casting him, in effect, as the program's hero (whose "estimates" allegedly prevailed, at last, with the Wise Men, and even brought about Johnson's decision not to run for another term), Crile relied for his selection of people to interview on a "List of Prospects" prepared for him by Adams, and kept Adams beside him during all "friendly" interviews. But of the "four persons still living" whom Adams planned "to approach," Crile put only one, Westmoreland, on the program. He wrote the script for Mike Wallace to interview another, Rostow; and then, when the interview seemed effectively to rebut every element of the program's thesis, simply did not use any footage of the Rostow interview. Crile himself interviewed (and surreptitiously tape-recorded) McNamara, and then ignored what McNamara told him (and, for a time, denied the existence of the tape). But, in all the arcana of the trial and the broadcast, Crile's treatment of the fourth, General Phillip Davidson, was simultaneously the most telling and the most mystifying. Although the whole broadcast ignored Davidson (who, as McChristian's successor and Westmoreland's chief of intelligence, would have been quite literally *the* officer "at the highest levels of American military intelligence" to carry out the alleged "conspiracy"), and although Crile claimed to believe, as Wallace (in part of the interview that was cut) told Westmoreland, that Davidson was "too sick" to be interviewed, or even "on his deathbed," Adams knew at least five weeks before the broadcast, and (according to the Benjamin Report) had told Crile, that Davidson was "healthy as a clam." Adams had even made notes ("Davidson, Gen'l Phil B. . . . Doing fine, remarried, living down in Texas. . . . He's writing a book on Giap"), and had even jotted down Davidson's current address. Ira Klein, the young film editor, too, testified, at his deposition, that Crile knew Davidson was alive and well. Crile, at his own deposition, testified that he had believed Davidson was too ill. All this, when the depositions were completed and before the trial began, Crile and all the other litigants knew, before Crile ever took the stand. And yet, at trial, after saying repeatedly, "It was my understanding, at the time, that [General Davidson] was on his deathbed," and after being confronted with questions based on Crile's *own notes*, prepared for the CBS internal investigation that led to the Benjamin Report: "Q. Let me read those into the record, sir. 'A. General Davidson. CBS wanted very much to interview Davidson.' That's the truth, is it not, sir?"

Q. All right. Now, it is true, is it not, that CBS wanted very much to interview Davidson, correct, sir?

A. I wanted to interview General Davidson. We all did.

Q. [quoting from Crile's notes] "The transcripts are filled with accusations made against him and his intelligence operation, which CBS would have liked to put to him directly." And that refers to General Davidson, does it not, sir?

A. That does.

Q. Next paragraph. "It was our understanding, however, that Davidson was on his deathbed." . . . Did there ever come a time in 1981 when Mr. Adams told you that General Davidson was well?

A. I don't recall him ever having done that.

And so on, with answer after answer to the effect that Crile had sincerely believed in Davidson's mortal illness, and would otherwise have been sincerely eager to interview him.

Q. Mr. Crile, in your white paper you state CBS wanted very much to interview Davidson. Correct, sir?

A. Yes, that's correct.

Q. And Mike Wallace, in his interview of General Westmoreland, said that General Davidson is "a very, very sick man who we want very much to talk to," correct, sir?

A. That is correct.

And then Burt suddenly quoted from Crile's own script for Mike Wallace: "We want to get Westmoreland to say that McChristian was great stuff, totally reliable. *We don't give a goddam about Davidson.*"

And, of course, though Crile then embarked on one of his longer, more combative and evasive answers (for which he had been rebuked, with particular severity, outside the hearing of the jury, earlier that day, by Judge Leval), there it was. What was mystifying was that, *knowing* there was all that testimony to the effect that he had been told about Davidson's robust health five weeks prior to the broadcast, *knowing* that there was, in the record, in his own script, "We don't give a goddam about Davidson," Crile should have risked all the preceding, now patently incorrect answers, and that he should have remained so unfazed, even supercilious, on the stand. No "conspiracy" at "the highest levels of American military intelligence" could have existed without Davidson: Davidson *was* "the highest levels of American military intelligence." Even if the defendants had prevailed in their early attempts to show that the program was not "of and concerning" Westmoreland, it would have had to be "of and concerning" his chief intelligence officer. Crile and, because of Crile, Mike Wallace claimed to have believed that Davidson was too ill to interview. Two people, Adams and Klein, gave testimony to the effect that Crile knew, five weeks before the broadcast, that Davidson was well. Crile, in his notes for CBS's internal investigation, and at his deposition, and on the stand, testified that he did not know; and that, had he known, he would certainly have "wanted very much" to interview Davidson. And yet the memo (one recalled that other note to Wallace: "Now all you have to do is break General Westmoreland and we have the whole thing aced") made it very clear that "we" did not "give a goddam" about Davidson. And Davidson, alive and well, was a particularly effective witness at the trial (and remains healthy, in San Antonio, Texas, to this day).

As for Sam Adams, on whom Crile relied so heavily (though, as it turned out, selectively), he remained, from well before the inception of the program until after the conclusion of the lawsuit, a complicated and ambiguous presence. When Crile first showed him the blue sheet, for example, with its twenty-four mentions of the word "conspiracy," Adams had said (according to his testimony for the Benjamin Report), "Oh, for Christ's sake, George, come off it." And after Westmoreland's press conference in January of 1982, at which Westmoreland and other former officials (including Davidson) denounced the broadcast, Adams had rushed into the CBS offices and said, "We have to come clean" (that the falsifications had originated in the White House), and suggested a retraction. On the other hand, it was Adams, at the climax of the broadcast itself, who claimed, in effect, to have altered history:

ADAMS: I was asked to bring together a—an estimate of how many enemy there were. And I said there were about 600,000. And I understand it was used to brief the so-called Wise Men, Lyndon Johnson's senior advisers.

WALLACE: Who are we talking about?

ADAMS: They included Dean Acheson, George Ball, Arthur Goldberg, Maxwell Taylor, and so forth.

WALLACE: What had happened is, that after Tet the C.I.A. had regained the courage of its convictions, and among other things, they told the Wise Men of the C.I.A.'s belief that we were fighting a dramatically larger enemy. That was at least one of the reasons why Lyndon Johnson's advisers concluded that, despite the *military's insistence that we were winning*, the enemy could not in fact be defeated at any acceptable cost. The Wise Men then stunned the President by urging him to begin pulling out of the war.

Wallace went on to say that five days after George Carver, of the C.I.A., had briefed the Wise Men, "a sobered Lyndon Johnson addressed the nation," to announce that he would not run again. Now, nearly all of this was fantasy. Adams was not "asked" to make an estimate, in late March of 1968, when the meeting in question took place. He had *made* an estimate, in late 1966, based on his "extrapolations," from an out-of-date monthly summary of captured enemy documents, and had failed to persuade even the C.I.A. that it was accurate, as, indeed (according to all knowledgeable accounts, American and even North Vietnamese, from that time to the present), it was not. Adams' figures were not "used to brief" the Wise Men. They had been repeatedly reviewed, and emphatically rejected, at lower levels, months before. The C.I.A., moreover, did not regain "the courage of its convictions;" and Carver, who conducted the briefing, happened to be the official who had most emphatically repudiated Adams' estimates, and did not (according to his sworn deposition) use *any* estimates of enemy troop strength in his briefing of the Wise Men. According to sworn affidavits by the Wise Men themselves, there was at the meeting in question "no discussion of any change in intelligence estimates of enemy forces." "Instead, the discussion focussed" on the attitude of the American people toward the war. The only one of the Wise Men who was interviewed for the broadcast was Walt Rostow. He was not asked at all about the meeting. And nothing of his interview was used. Carver, as it happened, had joined Westmoreland at his press conference after the broadcast. He spent four days as a witness on the stand. As Adams' superior, and George Allen's, in the C.I.A., Carver had been one of Crile's "last-minute" contacts (Komer was another); that is, people who were in a position to rebut the program's thesis, fundamentally and in detail, but who were not interviewed on camera, or consulted until the broadcast was virtually complete. In addition to his testimony about the program itself (which conflicted with it on almost every factual point), Carver testified, in one of the trial's few moments of historic interest, that "estimates" about the enemy's irregulars (the village defense units, the grandmothers and the children) were always so uncertain that he, on behalf of the C.I.A., had come to favor representing them not in numbers at all but in "prose narrative" form. As for a set of notes, entitled "An Interview with George Carver," which Crile took of their interview, Carver quietly but repeatedly characterized them as deceitful ("The rest is Mr. Crile's invention"); and he characterized Adams himself, and testified that he had so characterized him to Crile, as a man who "was often in error but seldom in doubt."

As it turned out (in one of the bizarre facts, like Halevy's maid at gunpoint, that often emerge upon discovery), from early 1968 until 1973, when he left the C.I.A., Adams, according to his deposition, had "purloined" documents from the C.I.A. files, and buried them, in "a leaf bag," near his home, in Virginia. The leaf bag had "sprung a leak," with the result that many of the documents were destroyed. In 1973, just before quitting the C.I.A., he testified on behalf of Daniel Ellsberg in United States v. Russo and Ellsberg. His intention had been to say that since the "estimates" of enemy troop strength were anyway "faked," there could be no violation of national security in leaking them to the press. This position seemed reasonable enough. One difficulty, however, which emerged on Adams' cross-examination in Westmoreland, was that in the Ellsberg case he had also given such testimony as this:

> The questions arose in the intelligence community's mind as to whether to count a guy that stuck a pungi stick in the ground as part of the Order of Battle. That is among the problems which arose. *It is very difficult to decide who to count.*

And:

> The problem always was in Vietnam to sort out who was a soldier and who wasn't. A person that lays a grenade on a path with a trip wire . . . *Now, whether you consider this man a military man or a civilian, I couldn't say.*

And:

> Now, even in the guerrillas . . . you are not absolutely sure how many guerrillas to count. The same problem arises with the self-defense, secret self-defense and particularly the political cadre. . . . *It is very difficult to decide who to count.*

And, while all these answers were sound and reasonable enough, they were absolutely in conflict with both the thesis of the broadcast and the defendants' theory of the case, in that both allowed for no such difficulty, or honest difference of opinion, about "who to count," and who was "a military man or a civilian." These answers, in other words, were at almost perfect odds with the whole notion of "conspiracy." Adams tried to explain away these earlier expressions of allowance for honest, good-faith doubt by saying he had to modify his real views, in the Ellsberg case, in anticipation that Hawkins (who "despised that Ellsberg fellow") was going to commit perjury, and say that the figures Ellsberg leaked were honest. But, apart from the sheer confusion inherent in an "explanation" of that kind (that dishonest testimony was required of Adams in anticipation of perjury from Hawkins on the other side), the possibility became distinct that *both* Adams and Hawkins were prepared to be less than honest, on the broadcast and in court. And, for a moment, the whole case seemed to tilt, as to which side was engaged in deception and conspiracy to deceive.

In 1975, after his article was published in *Harper's*, Adams appeared before the Pike Committee, and his testimony there, too, created difficulties for him on cross-examination in Westmoreland. In answer to a question from a congressman, as to whether a specific document he was testifying about was classified, Adams had replied, for example, "A lot of this has not yet been made public. This is taken from notes that I took." The difficulty was that the document came not from "notes that I took" but from the C.I.A. files he had "purloined" and buried in his leaf bag. In answer to another question, what was the basis for the figure in a statement in his *Harper's* article that as "many as 10,000 American soldiers had been killed in the Tet Offensive" (the actual figure was about a thousand), Adams had replied, "That number was too high. *I flipped out that one by mistake.*" He had also testified that military intelligence estimates in Vietnam were "a bit low, but basically honest."

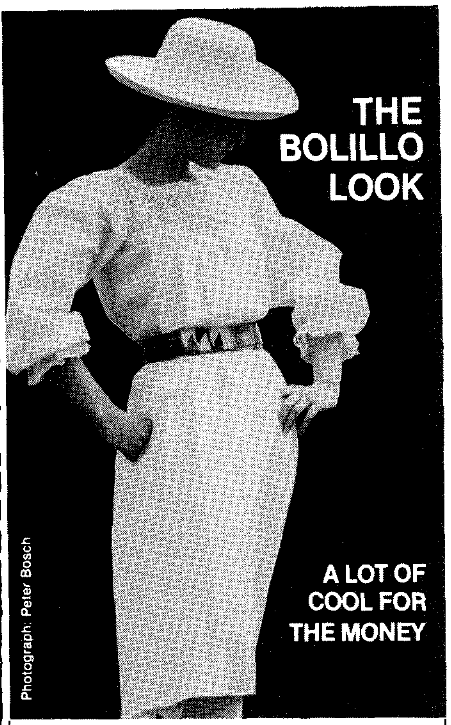
Early in Adams' cross-examination, he received from Judge Leval a relatively mild variant of the instruction given repeatedly to Crile:

> THE COURT: All right. . . . I would simply like to give one instruction to Mr. Adams. Mr. Adams, you have to answer the question that's put to you. It's been my observation that, on several instances, where you thought there was something to be said that countered the thrust of the question, you simply didn't answer the question, but went straight to what you would have regarded as the rebuttal.

There were nine paragraphs, not counting interpolated "O.K."s and "all right"s from the witness, of this particular instruction.

> My observation has been that, several times, you have simply left out the answer to the question that was put to you. . . . So please be aware of that. And also, as a general proposition . . . it's not a debate. . . . I would also suggest to you . . . a large part of what you're being examined about has to do with material that you were not personally familiar with. . . . You have a tendency frequently to assert things as facts . . . when you were not present and you know it only by virtue of having been told. . . . So try to avoid the form of asserting facts to be true when they are things that you know only by virtue of having been told, in the course of interviews, or having read them in books.

Adams was, in general, a more courteous witness than Crile, and more inclined to abide by the instructions from the judge. Yet there was about both witnesses an aura not only of the prerogatives of social class but of having



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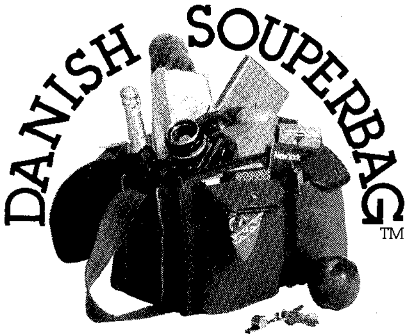

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condescended to participate in the proceedings as advocates, and not as witnesses. For Adams, however, the remaining factual difficulties were basically two: that in all the years of his wandering, since 1967, like the Ancient Mariner, with his tale of suppressed estimates, he had always included, among the culpable, officials (military and civilian) higher in rank than Westmoreland; and that, in all his "lists," "chronologies," and other notes, he had never once (and neither had anybody else) so much as mentioned the more than a hundred thousand North Vietnamese who, the program alleged, infiltrated South Vietnam in the five months before Tet.

The first problem was presented more acutely by another witness, Greg Rushford, for eight months an investigator for the Pike Committee, and a devout believer in Adams. On direct examination by Boies, Rushford seemed an effective witness on CBS's and Adams' behalf, telling what he had said, during the making of the broadcast, to Adams and to Crile. On cross-examination, however, by Dorsen (over heavy objections by Boies), he began alluding, with a kind of dark ebullience, to a "larger web" (which Judge Leval subsequently called a "wider conspiracy"), which seemed to include among the conspirators virtually everyone. In the first bench conference, which Boies requested to state his objections to Dorsen's mild inquiries into Rushford's real beliefs, Judge Leval remarked that "Adams and Crile, or somebody at CBS" might have had reason to regard Rushford as "far out." A bit later, in response to further objections, the judge put it more forthrightly, in ruling that Dorsen's questions were simply directed to what was told to Adams and Crile, and "not simply to exploring this witness's views to show that he's a kook." That was the first, or "larger web," problem: that Adams' conspiracy-to-suppress theory had always extended, before "The Uncounted Enemy: A Vietnam Deception," to officials higher than Westmoreland, including (in direct contradiction to the program's central thesis) President Johnson and the Joint Chiefs. Westmoreland could hardly have conspired to deceive his military and civilian superiors in a deceit in which they were his co-conspirators.

But the second problem, the hundred thousand North Vietnamese infiltrators, whom nobody, *including Adams himself*, had ever detected before "The Uncounted Enemy: A Vietnam Deception" alleged that Westmoreland suppressed them, proved insuperable. Not surprisingly, Adams found it difficult to explain why, in the fifteen years between the alleged infiltration and the broadcast, nobody had noticed or heard of these hundred thousand men. The broadcast was unequivocal:

> WALLACE: But CBS Reports has learned that during the five months preceding the Tet Offensive, Westmoreland's infiltration analysts had actually been reporting not seven or eight thousand, but more than 25,000 North Vietnamese coming down the Ho Chi Minh Trail each month, and that amounted to a near invasion. But those reports of a dramatically increased infiltration were systematically blocked.

In other words, *more* than a hundred thousand, in fact, a hundred and twenty-five thousand. Source X, the National Security Agency, which monitored troop movements electronically, had not reported them. (And, since Source X emanated from Washington, Westmoreland could not have suppressed *those* reports.) Adams, as a witness:

> Q. Is it your testimony that *the first time* all of this was made public was in January, 1982, by CBS Reports?
>
> A. That is among the reasons why I think that "The Uncounted Enemy" is an extraordinarily valuable piece of documentary work, *because it told this story*, as I understand it, *for the first time.*
>
> Q. All these people coming up with studies, all these 100,000 to 150,000 unreported infiltrators, as you say, *it took fifteen years* before this information came to light, Mr. Adams?
>
> A. That's the long and the short of it.

And with this preposterous testimony, on behalf of this preposterous "journalism," in these two preposterous (but also highly serious and embittered) lawsuits, something about the process that had brought everyone to court came, inadvertently and quietly ("That's the long and the short of it"), to light. Because at this point it became clear that, however absurd the rest of the program may have been, the infiltration part of the thesis was plain dishonest. It might well be true, for instance, that in all the years since 1967 Adams had sincerely believed that his "estimate" of six hundred thousand enemy troops was right, and that the irregulars (the sympathizers, the grandmothers and the children) should be included in the Order of Battle, the official category of soldiers, armed guerrillas, and other military men (although to treat noncombatants or civilians as soldiers would be an outright violation of the Geneva Conventions, and inhumane). And it could also be believed that, when his "estimate" was not accepted by the American military or within the C.I.A., and when the irregulars were not included in the Order of Battle (though they were, at all times, listed in a category of their own), he sincerely believed that his "estimate" had been not in good faith rejected but dishonestly "suppressed." From a notion that "estimates" of irregulars were "suppressed," it was a short emotional jump to the idea that there had been a "conspiracy" to suppress them. In Adams' original, and sincere, version, the purpose, and the historical dimension, of the "conspiracy" to suppress his "estimates" was to conceal the fact that we *should not have been in* that war. That is, if the size and the composition of the enemy in Vietnam had been as Adams, in his "extrapolations," analyzed them, then the war in Vietnam was not a war but an insurrection. And the United States did not belong in Vietnam. Now the "extrapolations" and the "insurrection" view turned out (by both American and North Vietnamese accounts as well as by historical events themselves) to be mistaken (there were fewer than ninety thousand enemy fighters in the all-out effort at Tet); but the second part was a sound, ultimately almost unarguable proposition. The United States, it is generally acknowledged, underwent its own disaster in that war. The trouble was that there was no *link* between the proposition and Adams' "estimates." By 1980, when Crile enlisted Adams for the broadcast, there was another difficulty: even the proposition that the United States did not belong in Vietnam was too widely shared, and too dated, to be, by any stretch of the imagination, news.

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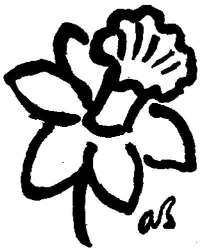
And Adams' view (and Crile's) had subtly but radically shifted: the link between the "estimates" and the "conspiracy" to suppress them was now formulated in terms not of purpose but of result. The effect of the "suppression" of Adams' "estimates" was no longer concealment of the fact that the United States *did not belong* in the war in Vietnam; *it was the explanation of why the war was lost.* This fitted in perfectly with television's invariable preference for the simple. Everything else fell, or was cut, or nudged, or elided, into place.

But Adams, the hero as "intelligence" analyst, totally alone, was not, even for television, a credible story. So McChristian was made to seem to have held similar views, and to have been fired for them (though McChristian had not held such views, and though documents showed he had left to take a command he wanted, while Westmoreland had requested him to stay). And Hawkins was made to seem to have held similar views, and to have joined in the suppression of them (though Hawkins had not held such views, either, and had "blocked" or forgotten almost the entire period, until Crile and Adams came along). And Allen, of the C.I.A., was made to seem to have held such views, and, when he failed to express anything like them, was re-rehearsed, and re-interviewed, and implored. (Crile: "Come to the defense of your old protégé, Sam Adams." Allen: "No, I don't remember. Refresh me." Crile: "I'll refresh you. . . ." Allen: "Is it really kosher to go over this?" Crile: "Oh, this is what we do.") This is what we do. And Carver, Komer, McNamara, Bunker, Nitze, Wheeler, Bundy, Sharp, and others in a position to have knowledge of the matter were ignored. Rostow was interviewed, and, when his interview too convincingly undermined the theory, the interview was discarded. Graham was interviewed, and cut to twenty-one seconds. And Davidson was consigned to his "deathbed," and left out. Several people (besides Allen) who more or less agreed, or who had heard rumors to the effect that official estimates of enemy troop strength were in some way inaccurate, were represented as more knowledgeable, and more highly placed, than in fact they had been (George Hamscher, for instance, a lower-echelon bureaucrat stationed in Honolulu, as "head of M.A.C.V.'s delegation," from Saigon); and even *their* views were cut, distorted, and elided. (Cut: Meacham, "No numbers were faked;" five others, specifically denying "conspiracy." Elided: Hawkins, "These figures were crap," among countless other examples.)

The story seemed to require a villain. President Johnson, along with any number of others, was, again, not by any stretch of the imagination news. Westmoreland, then. He was interviewed, with technical questions he had not in fourteen years had occasion to consider, by Mike Wallace (with Crile's script) at his most adversarial. When Westmoreland, within days, sent a letter containing corrections, Crile told Wallace it was not "relevant," and ignored it. Then the story, as it worked out, was relatively simple, and it became essentially this: Sam Adams, lone intelligence analyst, had, on the basis of a "captured enemy document," made the first accurate "estimates" of enemy troop strength; Westmoreland, briefed (and shocked), privately, with similar "estimates" by Hawkins and McChristian, fired McChristian, suppressed the "estimates," and led a "conspiracy" to deceive, among others, the President and the Joint Chiefs. As a result, the American military was unprepared for, and American soldiers suffered unnecessary slaughter and defeat at, Tet. Then Adams was vindicated. The C.I.A., having regained its courage, used Adams' honest "estimates" to brief the Wise Men and the President. But, in at least two ways, the vindication came too late. President Johnson chose not to run again, and the United States lost the war in Vietnam.



The story had its own utter and obvious absurdity; but it was apparently not enough. There remained the matter of the hundred thousand to hundred and fifty thousand North Vietnamese soldiers, surreptitiously infiltrating South Vietnam in the five months preceding Tet. No source (American, North Vietnamese, or other), including Sam Adams, had ever mentioned them before. And one might have thought that even a low-level "intelligence" analyst would have seen a difficulty even with the simpler story, as it stood. The highest estimate of enemy troops, regular and irregular, who engaged in the Tet offensive was eighty-five thousand. If Adams' initial "estimate" of six hundred thousand, regular and irregular (all of whom should have been included in the Order of Battle), was accurate, the question, posed almost inescapably, was: What were the remaining five hundred and fifteen thousand *doing* during Tet? Or if, as would be understandable, they were just being irregulars—children and grandmothers—aloof from the offensive, why *compound* the difficulty, with a hundred thousand to a hundred and fifty thousand regular North Vietnamese soldiers infiltrating South Vietnam, unseen by anyone (because their existence was concealed by Westmoreland), until CBS made its revelation, in 1982. That is, were these *regular soldiers*, or at least sixty-five thousand of them, idle during Tet as well? And the answer, "the long and the short of it," as Sam Adams put it in his testimony, was that, though the element of the mass phantom infiltrators made no conceivable sense, *it made a better story*, in that it seemed like a reporting coup. So that, from a sincerely held belief, that he was right about the irregulars and that the failure of others to agree reflected a conspiracy against the truth; from what was from one point of view the fifteen-year crusade of the self-important intelligence bureaucrat but, from another, an almost touching personalization of the war, Adams and Crile and, finally (with all the exaggeration fierce advocacy and solemn testimony under oath can bring to bear), CBS and, of course, Boies and Cravath came to embrace what was only a device of plotting melodrama, and then engaged in major litigation on behalf of ninety minutes of factually false and intellectually trivial "documentary." They thought it must be true, because it would have been a scoop.

It is, of course, the press's business to go after scoops. Or part of the press's business. And certainly the press shares in the mortal right to make mistakes. There is, however, a fundamental incompatibility between the values embodied in the very concept of scoops and any sort of rigidity about them. The claims journalism normally, and rightly, makes appear to be quite modest—just daily inquiry, no time really to check, recourse to documents is the work of scholars, truth will emerge, history will decide. Duncan, *Time's* chief of correspondents, actually said in his trial testimony, defending his decision not to correct what he insisted was the "misinterpretation" by every other publication, including the New York *Times*, of the paragraph in *Time*, "I have an assumption, and it is normally true, that erroneous reports in the press . . . correct themselves in a rather short time. Particularly, I assumed that . . . readers everywhere around the world, that they would then know what the magazine had said, rather than the false reports [in all the other publications, based on *Time*], and that that would be corrected."

What Duncan had done was to tell the *Times* reporter, in effect, that "*Time* stands by its story." After Westmoreland's press conference, after the article in *TV Guide*, after CBS's own praiseworthy investigation, which resulted in the Benjamin Report, the president of CBS News, Van Gordon Sauter, issued not the report itself but a press release that contained the statement "CBS News stands by the broadcast." Now, it is a long jump from the scoop ("*Time* has learned," "CBS has learned") to the reflex that each "stands by" its paragraph or its broadcast. It implies some *interim confirmation*. And in both cases this implication turned out to be almost perfectly misleading. *Time* felt that it had some legal or professional obligation not even to investigate. And the Benjamin Report revealed the unprofessional basis of almost every editorial decision in the making of the program. From there, however, it is a quantum jump not even to admit doubt or to consider a retraction but, on the contrary, to undertake what is in reality not a defense at all but a grand assault, with all the most costly and aggressive strategies of major litigation. The reporting coup, if that's what it was, has now gone from its initial formulation ("*Time* has learned," "CBS Reports has learned"), through its reiteration and defense ("*Time* stands by its story," "CBS News stands by the broadcast"), to an actual attempt legally to *enforce* it. The First Amendment is, in essence, a protection for diversity against the exercise of centralized, governmental or quasi-governmental power; it is not only trivialized, it cannot possibly be properly invoked, on behalf of the enforcement of a scoop.

It is notable that what "has learned," and who "stands by" were phrased in institutional terms: not Halevy or Adams (or Wallace or Crile) but a magazine and a network "learned." There is in the phrase an overtone not just of inside information but also of the vast authority of the entire institution, something more than even the dimension of trust already embodied in publishing or broadcasting, under his own byline, what a reporter writes or says. The inside-dopester overtone of this kind of journalism was manifested, in almost wonderful unconscious idiocy, when Halevy, at his deposition and then at trial, referred repeatedly to a Lebanese *press official*, "code name Max." Barr, with Halevy on the stand, seemed unfazed, even charmed, by this testimony:

A. The pending question is if I met Israelis.
Q. Yes.
A. Yes, I did.
Q. Who did you meet?
A. I met an Israeli official.
Q. More than that, you won't tell us?
A. Let's call him—I think I used an initial for him. I will say Mossad official Mr. L.

Q. When you say a Mossad official, was it a high, low official?
A. Deputy Mossad chief.
Q. A high Mossad official?
A. Yes.

A. So I asked a Phalangist official who served at the Phalangist unit—
Q. Press information?
A. Press-information unit—by the name of Max.
Q. Max?
A. It's a code name.
Q. That is what he is known as?
A. Yes.

As it turned out, neither "Mossad official Mr. L," nor "Phalangist official," "press-information unit," "code name Max" had told the witness anything of consequence. But the remarkable thing was that, when it suited the defense's purposes, the shield law was waived without a qualm, and a presumed source was identified with the highest specificity (there existed, after all, only one "deputy Mossad chief"), to establish the high level of the reporter's contacts. But a *flack*, in the journalists' and the attorneys' enchantment with mystification, is accorded the secrecy, and the romance, of a "code name."

It may be that the question "Max?" ranks beside the answer "That's the long and the short of it" among the great moments in recent judicial history. It may also be, however, that what emerged from both these cases about the profession of modern, mass-communications journalism is that readers and viewers need to be alert, from time to time, to what really is a kind of code. "*Time* has learned," as witness after witness testified, in Sharon, means that *Time* is not as certain as it is about information that is not introduced by such a phrase. The same is presumably true of "CBS has learned." But one does not need Mike Wallace's voice or intonation to sense that the phrase is also intended to introduce something momentous, in the nature of a major scoop; and the scoop itself is, likely as not, something a reporter heard somewhere, or thought he heard, and for which he claims a somewhat secret, and therefore valid, provenance. But the code may extend, particularly in television, to the minutest detail. Just because the camera cuts, for instance, to someone nodding while someone else is speaking, the nodding person need not (as is implied, as seems authentically recorded) have agreed with what the speaking person is saying; he may not even have heard it; he may not even have been present; there was just some footage of somebody speaking and some footage of somebody nodding, and the producer wanted, in this way, to make a point. Or, just because there is a question followed by an answer, the person answering may never even have heard the question he appears (as he seems authentically recorded) to have answered; the question may never have been posed to him; or he may in fact have answered it an entirely other way; or there was some footage of him answering some quite other question, or no question at all. Something analogous, of course, is possible in print journalism. But the illusion of *authenticity*, the person bodily there, is not the same.

These were the specific "sources" (apart, that is, from prior publications, "many," "you name it," and "so many it's unbelievable") that *Time's* correspondent claimed for the paragraph that contained the sentence about what "*Time* has learned," the sentence, in fact, that prompted Sharon to ask for a retraction and, when *Time* decided instead to reiterate and "stand by" it, brought on the entire suit: Source 1, referred to at the trial as General No. 1, and (rather confusingly, since the sources were designated entirely differently at trial than at depositions) referred to in Halevy's, Kelly's, and Duncan's depositions as Source B, who told Halevy that "crucial new notes exist" concerning Sharon's condolence call of September 15, 1982, on the Gemayels at Bikfaya. Source 3, referred to at the trial as Intelligence Person 3, and in the various depositions as Source A, who either (as Halevy repeatedly implied at his deposition; and as Kelly unequivocally stated, at both his deposition and the trial, Halevy had told him at the time) showed Halevy the "new notes, or minutes," or (as Halevy testified at trial) "*read*" them, or "pieces" of them, to Halevy over the telephone. This Source 3 (or A, or Intelligence Person 3) in any event told Halevy that the "new notes" revealed that Pierre Gemayel, father of Bashir and Amin, had said that the death of Bashir "must be avenged" and that Sharon had made "no response." On the other hand, Source 3 (or A, or Intelligence Person 3) also told Halevy that it was Sharon who "apologized" for having, in the course of a condolence call, "to talk business;" and the "business" in question, according to Halevy, was "revenge." So there was considerable ambiguity, according to Source 3 (or A, or Intelligence Person 3), whether Pierre Gemayel initiated the subject (and Sharon made "no response") or Sharon brought it up by starting to "talk business." Another thing Source 3 (or A, or Intelligence Person 3) told Halevy was that he (Source 3) had been called to testify before the Kahan Commission, and that the "notes," or "minutes," of Bikfaya (which he had either shown to Halevy or read him excerpts from) had been submitted to the commission in their entirety. Source 4, referred to at the trial as Government Official 4 (and in the depositions as Source C), who also "read" to Halevy from the notes, and added that "these notes will never be published," because they showed "greater involvement of the Gemayels and Sharon" in the massacres at Sabra and Shatila. All these were the "sources" of

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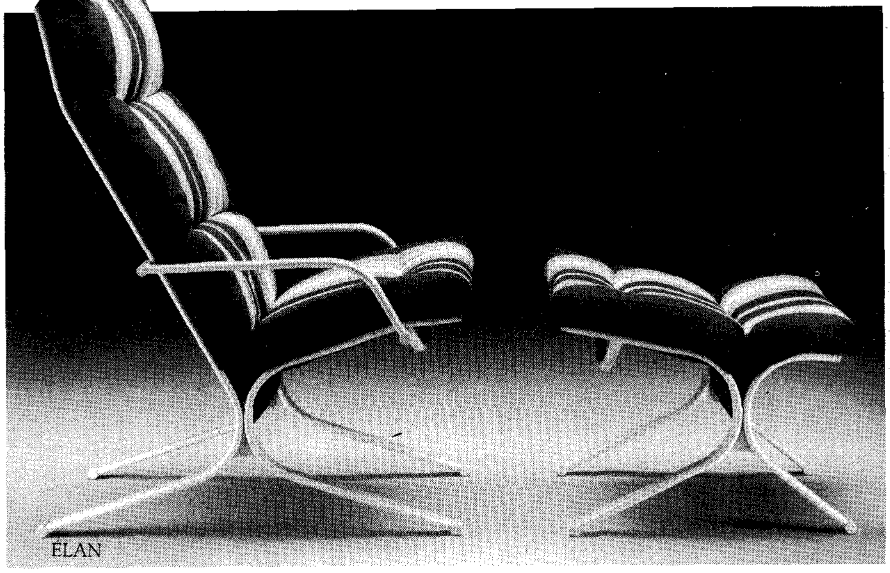

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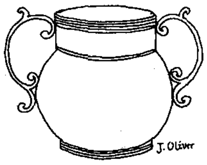
Halevy's Memo Item of December 6, 1982.

For anyone able or inclined to follow this somehow Biblical enumeration, there arises an immediate question: Where, in the whole account, is Source 2? Well, Source 2, who became known at the trial as General No. 2, as it were *sprang* into the case on Halevy's second day on the stand. He had never been mentioned in Halevy's deposition (or anybody else's); nor had the information that, it turned out, he (reading, like Intelligence Person 3 and Government Official 4, to Halevy from the "notes") provided for the Memo Item of December 6th. Source 2 (or General No. 2) had said (or "read") to Halevy, for instance, that Sharon said, at the Bikfaya meeting, that the assassination of Bashir Gemayel was a "Syrian-Palestinian conspiracy," for which there must be "retaliation." Quite apart from the fact that (according, at least, to the Kahan Report) Sharon knew at the time that the assassination was the work not of Palestinians at all but of a Lebanese group (which, on the night of September 14, 1982, had actually asked the Israelis for protection against the Phalangists), the Mourabitoun, the remarkable thing about Halevy's summoning up this new "confidential source," Israeli General No. 2, at trial, is that he had never mentioned either this "source" or his information to anyone before. Not at his deposition, where, he explained (as though he had not been questioned, in the greatest detail, about who or what all his "sources" might have been), "Nobody asked me;" also, "But, by the way, Mr. Gould, at that time I did not see the great significance you are finding in that statement." And not even to anyone at *Time*—to whom the news that Sharon actually advocated "retaliation" would presumably have been of greater interest, and even precision, than either Halevy's original formulation ("gave them the feeling, after the Gemayels' questioning, that he understood their need to take revenge . . . and assured them that the Israeli army would neither hinder them nor try to stop them"), or even the writer William Smith's final text ("discussed with the Gemayels the need for the Phalangists to take revenge"). And, if Sharon had so forthrightly proposed "retaliation," what was the need for either of these delicate circumlocutions, or for that other phrasing, by Halevy at his deposition, " 'Gave them the feeling' could be a body movement, could be silence, could be a non-outspoken rejection of their raising the issue, and could also be indifference to the fact"? (Also: "Could also be read as meaning a verbal communication . . . ? A verbal communication? No.") Halevy had, at trial, this explanation:



> The Court: . . . Did you tell anyone at *Time* about General Number Two and what he conveyed to you?
>
> The Witness: No, sir. Because if I would have conveyed it, the military censor would have taken it out.

With this answer, if Halevy's presence (and his apparent readiness to say anything at all, as if factual matters were a thing of barter, or of haggling in a *souk*) were not so disorienting, *Time's* whole position fell, perhaps not for the first time, to smithereens. Because, if the paragraph that purported to convey a state secret were true, the military censor would have taken it out as well. But Judge Sofaer, remembering that "the military censor" could scarcely have interposed himself between the witness and, for example, Kelly, who was right beside him at the office, went mildly on:

> The Court: Mr. Kelly was with you in Jerusalem? He was your chief, your bureau chief?
>
> The Witness: Yes—no, at the time—
>
> The Court: Did you tell him?
>
> A. You mean at the time—
>
> The Court: In December, when you wrote this story?
>
> A. I think he was the bureau chief.
>
> Q. Did you tell Mr. Kelly, who was the bureau chief at the time, what General Number Two had told you?
>
> A. I don't recall.

In any event, on February 10, 1983, when Kelly asked him to check whether the substance of his Memo Item was really in Appendix B, and Halevy used the phone in the adjoining office, Source 1 (or B, or Israeli General No. 1) was "unreachable." Source 2, or General No. 2 (who, since he was not mentioned at the depositions, had no alphabetic designation in the case), said, "It all started at Bikfaya. Go back to Bikfaya . . ." —words that struck Halevy not only as significant but as "Shakespearean." Source 3 (or A, or Intelligence Person 3) told Halevy about Appendix B precisely what was apparent from the published document (that Appendix B contained the names of agents, and other matters that, for reasons of defense and foreign policy, must remain secret). And Source 4 (or C, or Government Official 4) told him what was also plainly stated in the Kahan Report, as published: that Appendix B was "a reference book and index, a code book." Halevy said he asked him whether various notetakers at secret meetings were listed in the Appendix, (as even a cursory reading of the report made clear they were); Source 4 (or C, or Government Official 4) said that they were, and also that Appendix B was "secret." On the basis of these conversations, Halevy told Kelly either in words ("It's in there") or in substance or body language ("thumbs up, a sort of all clear") that the information in his Memo Item of December 6th was accurate, and that he had confirmed that it was in fact contained in Appendix B. On the basis of this assurance, Kelly completed his telex; Smith wrote his paragraph; *Time* published; almost every serious news publication worldwide took the story up. And with this paragraph, this testimony, this witness, *Time* litigated as though the entire First Amendment were at stake, and continued to "stand by its story," with what it called the "minor" exception of its location in Appendix B, till long after the jury verdicts were all in.

> A. Revenge, and I again repeat myself, Mr. Gould, the word revenge . . . was mentioned by Pierre Gemayel at Bikfaya.

> A. You got my answer three times. You want it again?
>
> Q. Yes, I want it again.
>
> A. With pleasure. I said before and I will say it again that the matter of retaliation was brought up by Sharon. Reprisal was brought up by Sharon.

> A. This is, how do you call that? You . . . call that giving them the feeling. You call that . . . will neither hinder nor stop them. I don't like to talk about it. I hate the subject. I am telling you, sir, it's painful, but—
>
> Q. I am sorry.
>
> A. I am sorry. I haven't finished. This is a very clear type of giving the feeling. A very clear type.
>
> Q. I want you to tell me what kind of gesture . . . body movement or gesture that conveys to the observer that the Israeli army would neither hinder them nor try to stop them.
>
> Mr. Barr: Your Honor, I don't think—
>
> The Court: I will permit it. Why would there need to be a body movement if Source 2 had told you that [Sharon] had asked for a reprisal, in effect, as you say, and then Pierre had said he wanted to avenge and he didn't say anything. Why would there have to be any body movement at all?
>
> Mr. Barr: Indeed, but who said there was?

> The Court: You don't know anything about a body movement having occurred?
>
> A. No, sir.

Q. Why did you say it then here?
MR. BARR: He didn't say it.
Q. I will read it again.

A. Sir, I refused to believe it then, I refuse to believe it now. I am an Israeli. I am an officer of the [Israel Defense Force] . . . I don't want to believe it 'til this moment.
THE COURT: All right, we will go to lunch.

Q. Green light means go ahead, doesn't it?
A. Green light normally means go ahead, yes, sir.
Q. And Green Light for Revenge means Go Ahead with Revenge?
A. Green Light for Revenge means Green Light for Revenge.
Q. It means Go Ahead for Revenge, does it not?
A. It means Green Light for Revenge.
MR. BARR: What is the point of this inquiry?

A. Nobody asked me.
THE COURT: I gather you are reiterating your answer that no one asked you about it, is that right?
A. Nobody asked me. . . . I sat there. Mr. Gilbert was very nice to me. He let me tell the whole story. It was going on for—
Q. General Number 2, Syrian-Palestinian conspiracy, reaction, retaliation. Did you say anything about that at your deposition?
A. During my deposition Mr. Gilbert walked me through the Worldwide Memo word by word. . . . He was not interested to get the whole story. . . . I answer whenever I am asked.
Q. The fact is, sir, that in your deposition you were asked repeatedly about your sources, isn't that right?
A. Correct, and in my deposition I also refused to say—
THE COURT: So your position is not that Mr. Gilbert didn't ask, but that you didn't answer, or what is your position?
A. Mr. Gilbert took me through the Memo Item word by word . . .
THE COURT: You did not understand him to be asking you about your sources about General Sharon at that time?
A. General—
THE COURT: Yes.
A. Definitely not.

A. . . . I was never asked about it.
MR. BARR: Can we confer about this a moment.
THE COURT: I don't see any need for it . . .
[Bench conference. The sole bench conference of this trial.]

Q. I am simply pointing out to you that that is different from what you said, is it not, at your deposition?
A. Sir, I will try—
Q. Is it or is it not?
A. Why don't you ask Mr. Gilbert? He asked me the question. He got an answer.

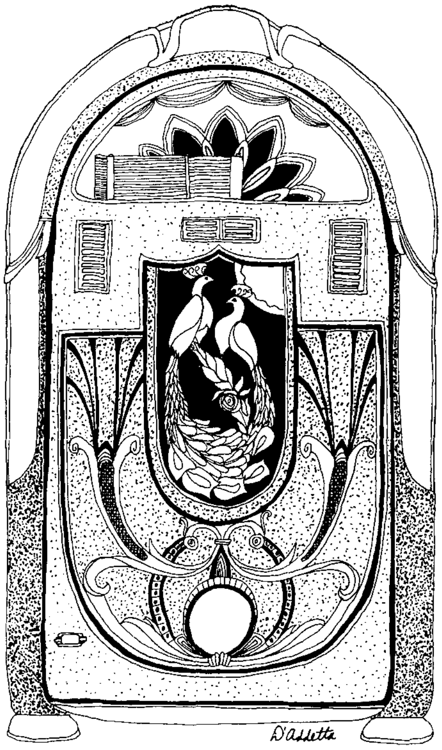
Halevy, it developed almost incidentally in his trial testimony, had filed a story, early in Israel's incursion into Lebanon, in which he had described Sharon as "a true statesman"—a phrase and a story that *Time* did not use. Duncan had written Halevy a letter, after the commencement of the lawsuit, which included the words "Lie low on Sharon. You will be rewarded." Kelly, for all the information *Time's* attorneys tried to show he possessed before writing Take Nine, seemed to think there had been *two* meetings between Sharon and the Gemayels during the condolence call at Bikfaya; and Duncan, for all the information similarly imputed to him, seemed to think Sharon had actually *attended* the funeral of Bashir Gemayel, and discussed revenge with the Phalangists there. The development in the case that most probably triggered Israel's reaction, in providing access to the relevant documents in the case, however, occurred during Duncan's cross-examination, when defense attorneys were trying to resuscitate his credibility after the debacle of the personnel files. In one of his last questions to Duncan, on direct, Goldstein had asked, sensibly enough:

Q. Mr. Duncan, if Justice Kahan understood General Sharon's statement [during his public testimony in October] to be that he had had a discussion of revenge at the funeral . . . a public admission of that fact, there wouldn't have been any need to put that particular fact into a secret appendix, would there?

And Duncan had replied, in what had begun to appear a *Time*-like way:

A. Might depend on what information that discussion at the funeral was in conjunction with.

The remainder of Duncan's answers on direct were equally unself-consciously meaningless. And, within moments, Saunders, on cross-examination, turned Duncan's testimony into a provocation, and an attack on Israel through the Kahan Commission itself. More than five times, Saunders put to Duncan the question whether he had noticed "inconsistencies between General Sharon's testimony before the Kahan Commission and what the Kahan Commission actually found." Again and again, in other words, Saunders suggested, or coached and invited the witness to suggest, that in its published findings the Kahan Commission ignored and suppressed evidence (in the form of Sharon's public testimony) which it already had.



Q. When did you first begin to perceive these inconsistencies that you have been testifying about?
A. I saw these items when I read the full report. I may have seen them earlier. I remembered some of them and I saw the rest of them when I read the full report this fall.

Soon the chief of correspondents was being led by counsel, like a schoolboy, through testimony that Justice Kahan, by not asking "follow-up questions" of Sharon, was concealing evidence of "inconsistencies."

Q. My question, sir, does the fact that Justice Kahan does not indicate in that passage that I just read to you—let me try this again. Does the fact that Justice Kahan in that passage that I just read to you did not follow up the question—
THE COURT: Or elsewhere.
A.—or elsewhere, anywhere else in the public testimony in such a way as to indicate during that testimony that the Kahan Commission had in its possession information [the "among us" in Sharon's October public testimony] that it believed to be inconsistent with [its findings], does that fact indicate to you that the Kahan Commission had no such evidence?
A. No, it does not.
Q. Why not?
A. Because we know from the passages that have been presented here *that it did have such evidence.*

In other words, the case had become, at this juncture, no longer merely that Sharon lied but that Justice Yitzhak Kahan and the Kahan Commission lied as well.

ON January 2, 1985, right after the Christmas and New Year's holiday, and thirteen days after the plaintiff had completed his presentation and Saunders had said, on behalf of the defendant, "Yes, your Honor. We will rest," it began to seem clear that, in response to a letter drafted jointly, on Christmas Day, by Judge Sofaer and the attorneys for both parties, Israel was going to respond to the court's request for relevant documents and other information, in a form all parties could accept. The main questions were how soon Sharon's and *Time's* Israeli attorneys, together with Justice Kahan himself, would be given access to the evidence (whether it would be in time, for instance, to reach the jury within a week), and, of course, what the evidence would show. Meanwhile, a last witness, Laurie Kuslansky, took the stand. A graduate of Queens College in 1976, and holder of a master's degree in linguistics from Columbia ("Q. Do you recall the topic of your thesis? A. Roughly, yes. I believe it was 'Vowel Lengthening in Tiberian Hebrew' "), Ms. Kuslansky was now a doctoral candidate at Columbia and had served as an interpreter for various agencies, private and governmental. She had also been, close to a hundred times, an official translator for the courts. Halevy had testified unequivocally at his deposition that the phrase "among us," Hebrew "*etslenu*," in Sharon's public testimony before the Kahan Commission on October 25, 1982 ("Revenge exists, without a doubt. Exists revenge. . . . The word 'revenge' also appeared, also I would say, in discussions among us"), could mean only "among Sharon and the Gemayels" ("There is a sentence—I'm not sure I'm quoting it correctly, I don't want to mislead you—Mr. Sharon says, 'The matter of revenge was discussed among us.' There is a very clear reference, to the best of my understanding, that he's referring . . . to meetings with the Phalange or with Lebanese officials. This is one. This comes on top of everything"). And that he, Halevy, had relied, above all ("This is one. This comes on top of everything"), on this public testimony of Sharon's, in writing what became the paragraph that said, "Sharon also reportedly discussed with the Gemayels the need for the Phalangists to take revenge." No other *Time* witness claimed, as did Halevy, to have read the words in Hebrew (or even to speak or understand Hebrew); but every other *Time* witness claimed, like Halevy, to have relied for the paragraph in question on this October public testimony of Sharon's.

Ms. Kuslansky, who seemed genuinely concerned with the exacting standards of her own profession, twice tried to correct what seemed to the court relatively minor errors in the entire text (she pointed out, for example, that even the official translation left out Sharon's second "also" in "The word revenge also appeared, also"). On cross-examination:

> Q. I am just focussing on the sentence at issue, Miss Kuslansky.
>
> THE COURT: I think you should make that clear to her because she is a professional translator and has very high standards, apparently.

But on what had become, improbably, one of the central issues of the trial she left no doubt:

> Q. Now, in your professional opinion can you tell his Honor and the jury who the speaker is referring to in that sentence, by the English phrase "by us," "in discussions by us?"
>
> A. Yes, I can. . . . My interpretation is that the speaker was referring to Israeli colleagues or other Israelis.
>
> Q. Would it be correct to read that as a reference to discussions with Arabs?
>
> A. No, it would not. . . .
>
> Q. In your professional opinion would anyone fluent in conversational Hebrew understand that to be referring to discussions with Lebanese or Arabs?
>
> A. No.

And it turned out that the particular word "*etslenu*" connoted "among us" or "by us" in the sense of "*chez nous*," or "among the brothers," or, as the witness put it, "domestic, national, family, or familial closeness, affiliation, or connection, one of exclusivity." Three of the jurors who would decide the case were white, two were black, one Hispanic; two were men, and four were women. There had always been a slight but undeniable undercurrent of racism in the conduct of the case. One of the jurors, a young black woman, seemed perceptibly to flinch when Gould, with a courtroom style perhaps adapted to another era and another urban ethnic composition, turned his back on witnesses, used New York inflections, and seemed sarcastically to nag instead of question. None of this was characteristic of his pleasant and extremely cultivated persona out of court. Saunders, on cross-examination, now asked the witness whether *etslenu* could refer only to "Israeli *Jews*." After a pause, recorded even in the transcript, Ms. Kuslansky answered, "That would be my assumption, yes." Did it exclude Israeli *Arabs*? Not necessarily. Finally, with a sort of wistful indirection, Ms. Kuslansky put it this way:

> So long as things are the way they have been and still are, there is still no reason that would make me accept *etslenu* to mean "we," spoken by an Israeli, to mean we, Israelis and Arabs.

The defense put on no translator of its own. And the slight racial undercurrent turned out to play no role in the outcome of the case.

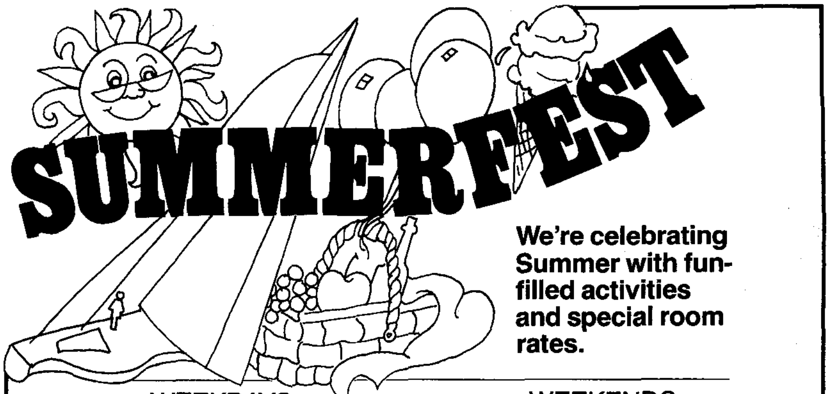
By January 9, 1985, the evidence had arrived from Israel; and Judge Sofaer decided that his agreement with the Israeli government obliged him to clear the courtroom temporarily and permit the attorneys to present some of that evidence to the jury under seal. Members of the press objected, and the objection led to an extraordinary interlude. The afternoon session had begun unremarkably. "We will have to have a conference," Judge Sofaer said in open court, jury not present. "A juror has taken ill, and is now in the nurse's office . . . and his blood pressure is a little low." Defense counsel pointed deadpan and accusingly at plaintiff's counsel, who said, also deadpan, "Mr. Barr points at me. I object to that."

"I don't know what caused the juror's reaction," Judge Sofaer said, in the same tone. "Maybe it was the imminent arrival of Floyd Abrams." The judge and Abrams were friends. "Whatever caused [the juror's] reaction, there it is; and we have a problem that I think we can deal with in the robing room after we finish dealing with other members of the press. . . . Mr. Abrams, you wished to be heard?"

"Yes, your Honor," Abrams said. "Your Honor, I am here on behalf of the Washington Post Company, New York *Times*, Newsweek Company, Philadelphia News Company, CBS, and NBC, to ask your Honor, to move that your Honor reconsider the order that your Honor entered this morning, barring the press and public from a portion of the trial today. . . . The basis of the motion, your Honor, is the First Amendment."

This was the First Amendment's first, and only, overt appearance in either trial. Its net result was to delay for a few hours (while Barr and Gould went, side by side, to argue before the appellate bench that the case should be allowed to take its natural course) the presentation to the jury of a few minutes' testimony, in a cleared courtroom, and under seal. The testimony itself was made public, with the consent of the Israeli government, in the open courtroom a few days after that. The unwell juror, about whom the attorneys for both sides expressed intense concern, also recovered late that afternoon.

The Israeli government had granted attorneys for both sides, in the presence of Justice Kahan, access to these documents: Appendix B; all notes and all testimony relating to Sharon's meeting on September 15, 1982, with the Gemayels at Bikfaya; all notes and all testimony relating to an earlier meeting between Sharon and the leaders of the Lebanese forces, at Karantina, on September 15, 1982; all documents relating to the meeting between Sharon and Bashir Gemayel on September 12, 1982; and all notes and all testimony relating to any other meetings between Sharon and the Phalangists between September 14 and September 16, 1982, when the massacres occurred. Justice Kahan, in the presence of attorneys for both sides, was to reply yes or no to each of three questions: "Does the document contain any evidence or suggestion that Minister Sharon had any discussion with the Phalangists in which either person mentioned the need for revenge?;" "Does the document contain any evidence or suggestion that Minister Sharon had a discussion with the Gemayel family or with any other Phalangist, at Bikfaya or elsewhere, in which Minister Sharon discussed the need to avenge the death of Bashir Gemayel?;" "Does the document contain any evidence or suggestion that Minister Sharon knew in advance that the Phalangists would massacre the civilians if they went into the camps unaccompanied by I.D.F. troops?" Gould had said in the robing room that if the answer to any of these questions with respect to any document or testimony before the Kahan Commission was yes, "this case disappears before my eyes," and that he would say as much in open court. The answer, to all three questions, for all the documents and testimony was, no. (*Time's* Israeli attorney raised what was, in



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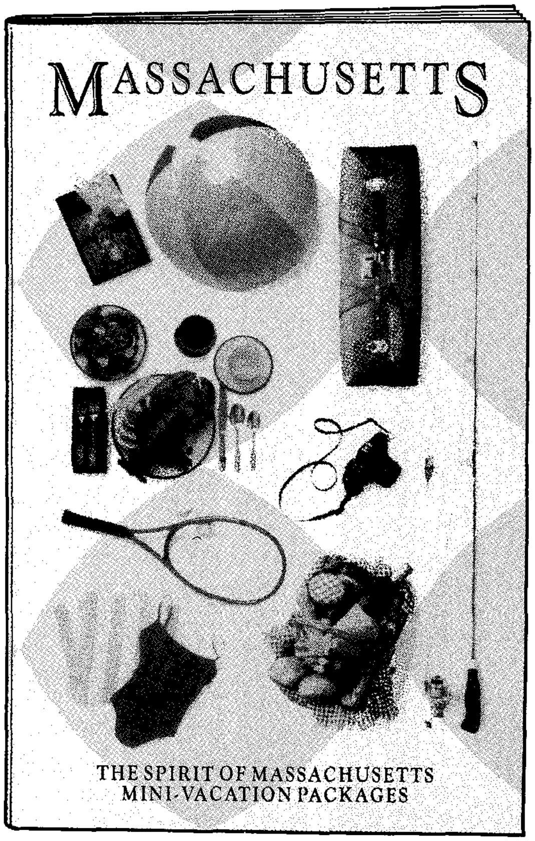

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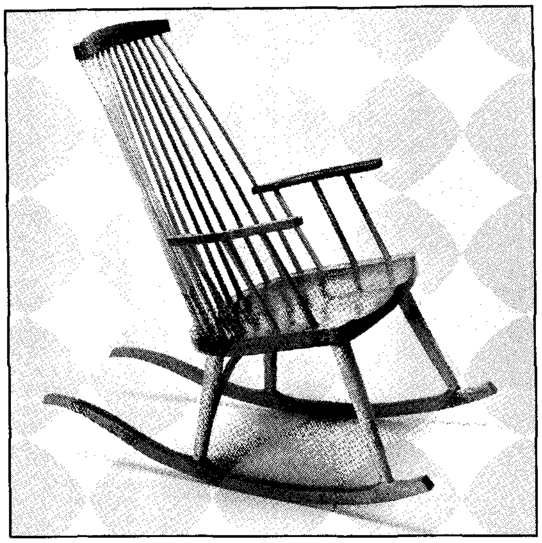
effect, a single "reservation": that there might have been relevant testimony presented to the Kahan Commission's investigators but not technically brought before the commission itself; there might also not have been such testimony; in any event, he had not seen it and therefore could not join in a reply about it either way.)

After the summations and an exceedingly complex charge to the jury by Judge Sofaer (the intricacies of libel law since Sullivan are such that no one could understand the judge's charge when he read it aloud; but the Second Circuit has recently encouraged sending the charge, on tape or in manuscript, into the jury room), Judge Sofaer sent the manuscript. The jury received its Verdict Forms, which contained the following questions: Was the paragraph concerning Sharon defamatory, and if it was defamatory was the defamation aggravated by its attribution to Appendix B; was the paragraph, by "clear and convincing evidence," false (because of conflicting case law, if the jury had not found it "clearly and convincingly" false Judge Sofaer would have sent the jury back to decide whether it was false "by a preponderance of the evidence"); was the paragraph published with "actual malice," that is, with "knowledge that it was false" or with "reckless disregard" as to whether it was false or not, or with "serious doubt" that it was true? If the answer to any of these questions (except the one about Appendix B) was no, there was no point in going on to the next question; the case was closed. That is, if it was not defamatory there was no point in deciding whether it was false. If it was not defamatory and false, there was no point in deciding if it was published with "actual malice." (The trial was "bifurcated," with the consent of both parties, to clarify and simplify the decisions as the jury reached them. If all the verdicts were yes, there would be a second, "minitrial" to determine the damages, if any.)

No one is allowed to enter or leave the courtroom while the judge is reading his charge; and, immediately after the charge, the jury was sequestered. The jury in Sharon was one of the most careful and conscientious in recent judicial memory. Almost immediately, it asked for a blackboard, cough medicine, three-ring binders, file folders, chalk, portions of transcript, "a quality dictionary," whether, over the weekend, the jury room would have heat. The jury had received the charge on January 14, 1985. By the morning of January 16th, the jurors had reached a verdict on defamatory meaning: Yes, the paragraph was defamatory, and yes, the defamation was aggravated by its attribution to Appendix B. The defense attorneys asked that the jurors be polled. They came out to be polled. They resumed deliberating. *Time* issued a press release to the effect that the jury was mistaken. There ensued what had to be the two full days of greatest tension in the trial. Because if the paragraph was defamatory and not false, then Sharon was far worse off than if he had never brought suit. On January 18th, the jury reached its second verdict. Again, the defense attorneys asked that the jury be polled:

> THE COURT: Good afternoon, ladies and gentlemen. I understand you have reached a verdict.
>
> THE CLERK: Mr. Foreman, would you read your verdict.
>
> THE FOREMAN: The verdict on falsity, the question is: Has plaintiff proved by clear and convincing evidence the falsity of the facts in the paragraph that imply the defamatory statement or statements we found *Time* has made? We found yes, the plaintiff has so proved.

Now two things happened: the press, and particularly *Time*, seemed completely to lose its bearings; and the period between the first two verdicts proved not to be nearly the time of greatest tension in the trial. *Time* issued a press release stating that "*Time* stands by the substance of its story," with the "minor" and "irrelevant" misattribution to Appendix B. Ray Cave, *Time's* managing editor (who had already testified, as had Duncan, that Halevy was one of *Time's* three or four "finest" investigative reporters), held a press conference in the courthouse corridor to announce that *Time* had "reconfirmed" its story "as recently as a few days ago." The press corps, its solidarity broken in this unaccustomed way, was full of consternation, and downright tactless in its questioning of Cave. "What did you do to check?" Herb Denton, of the Washington *Post*, asked, for example. "What did I do? Nothing. That's what you're trying to get me to say, isn't it," Cave replied. How had *Time* confirmed the story, then? Through its attorneys. The attorneys had got in touch with the "sources"? Yes. Directly? No. How? Through David Halevy. Had not the judge shown prejudice in insisting that the verdicts come out like this, in stages—a public-relations disaster? (In fact, the defense attorneys had suggested the process, to clarify the verdicts for an appellate court if *Time* found it necessary to appeal, and, more urgently, to avoid a jury's getting from "defamation," through "falsity," to "actual malice" too easily and in one fell swoop.) *Time* was beginning to let sit any aspersions on the jury and on Judge Sofaer. Meanwhile, the jury seemed to have embarked upon an endless stage of its deliberations. A verdict, when it comes, can be somewhat like the birth of a colt (the anticipation, the awkwardness, the small miracle); and the falsity verdict had been a bit like that. Lord Weidenfeld had blown in (like the mysterious "Mr. Baldwin," who arrives at all the critical junctures in "Scoop"), all the way from London, at the precise moment the falsity verdict was announced. But now, with a short break on evenings when they were tired, and a longer break on January 20th, to watch the Super Bowl, the jury deliberated. A grandchild of one of the court's more intimidating-looking marshals had a starring role in a commercial that would run during the Super Bowl; the marshal had begun showing reporters pictures of this grandchild, and was relieved to be allowed to watch the game as well. The jury asked for more documents, deliberated. It took a long time for counsel to agree on which parts of which testimony were directly called for in each of the jury's voluminous requests. By January 22nd, all the attorneys were extremely amiable, alternately reminiscing about past cases and giving reporters benign instruction in the law. There was talk of the Allen, or "Dynamite," Charge, with which judges may admonish juries that seem to have reached an impasse. But there was, in this case, no indication of an impasse. From the jurors' handwritten notes, which they left on a table (and which were found and preserved, when the trial was over, by the clerk), it was clear that they were simply proceeding, in a systematic and orderly way, through every passage of the judge's long and complicated charge. The reporters, who had, of course, like all other spectators, been locked in during the reading of that charge, now pored over it. Some had brought newspapers and paperbacks; but it was impossible, through the hours, to pay attention to any written thing other than that charge. "They can stay in there for three months and say, 'We're not deadlocked; we're just deliberating,' "



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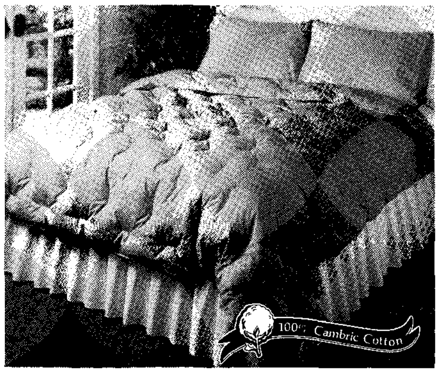

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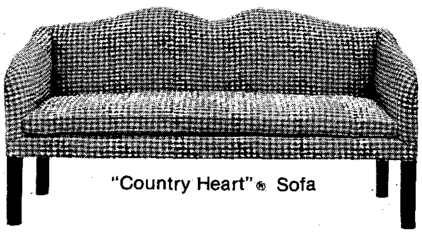

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Saunders said late in the afternoon on January 23rd. "There would be nothing anyone can do." Gould said that when early English juries took too long deciding, sheriffs would stop sending food in. He also said that, in an earlier day in New York, plaintiff's attorney would have managed to send in, "in a juror's sandwich," a copy of *Time's* press release—or even the pages of that week's issue, which regretted the misattribution to Appendix B, and then reiterated that the paragraph was substantially true.

At 9 A.M. on January 24th (the eleventh day of its deliberations), the jury sent the judge a note: "When we reach a verdict, are we legally permitted to make an amplifying statement of our findings beyond that outlined in the jury form? Of course we can and would send this statement to you first, along with the verdict sheet." This caused Judge Sofaer and the attorneys to deliberate. But there was nothing in the Federal Rules that prohibited such a statement. The judge and counsel agreed that the judge should instruct the jurors to be sure that their verdict was unanimous, and that their statement, if any, was consistent with it.

The Clerk: Mr. Foreman, has the jury agreed upon a verdict?

The Foreman: We have.

The Court: Mr. Foreman, I would like you to inform us of your verdict first, and thereafter I am permitting you to make the statement you wish to make in behalf of the jury. Does the jury unanimously agree to its statement as well as to its verdict? Go ahead.

The Foreman: Actual malice. To the question "Has plaintiff proved by clear and convincing evidence that a person or persons at Time Incorporated responsible for either reporting, writing, editing, or publishing the paragraph at issue did so with actual malice in that he, she or they knew, at the time of publishing any statement we have found was false or defamatory, that the defamatory statement was false or had serious doubts as to its truth?" To that question we find the answer is no, plaintiff has not so proved by clear and convincing evidence. . . .

The Court: Would you read your statement, Mr. Foreman.

The Foreman: The statement that amplifies what we found: "We found that certain *Time* employees, particularly correspondent David Halevy, acted negligently and carelessly in reporting and verifying the information which ultimately found its way into the published paragraph of interest in this case."

The Court: Does anyone want the jury polled?

Mr. Barr: No, your Honor.

The Court: Is that your verdict, ladies and gentlemen? So say you all?

The Jurors: Yes.

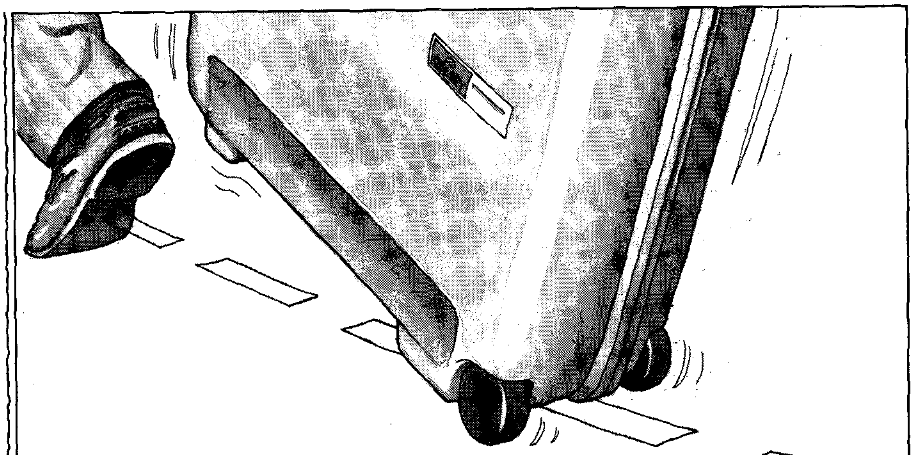
The jurors were an administrative secretary; a retired watch supervisor in an electric and steam plant; a secretary in public relations; a telephone-company marketing specialist; a psychologist; and the foreman, a computer programmer. At *Time's* press conference immediately following the verdict, Barr said, "We won, flat-out and going away."

On February 19, 1985, the Tuesday after Washington's Birthday weekend, Room 318 of the federal courthouse was crowded. The rows set aside for the press specifically accredited for this trial, the rows set aside for relatives of the litigants, and the rows set aside for press with other accreditation had for months been occupied informally by anyone who wanted to sit there. This day, the atmosphere was, for some reason, festive. Over the weekend, Burt, tired, disinclined to entrust Dorsen with the summation to the jury (and just before he was scheduled to rehearse and videotape a summation of his own), had suddenly, without discussing it with any other attorneys in the case, called Westmoreland and told him that all his attorneys were agreed: it was time to sign a joint statement and discontinue the lawsuit. Westmoreland signed. Burt went to a dinner party of attorneys from Cravath, where Boies congratulated him on his conduct of the case. The first that Dorsen or any of Westmoreland's other attorneys heard of any of these developments was from the press. According to Jay Schulman, a trial consultant on Burt's small staff, Mrs. Westmoreland was at first very angry; then she loyally made the best of it. Dorsen was preparing to resume the cross-examination of Hawkins when the first reporters called. Westmoreland did not know until the following day that none of his attorneys except Burt had recommended, or even known about, the possibility of a joint statement or a "discontinuance." It had come as a complete surprise as well to Judge Leval, who was working on several rulings and his own charge to the jury. But by this Tuesday morning the signing (minus Adams) lay two days in the past. Mrs. Westmoreland sat in her accustomed place, a few rows from the rear, near the aisle, on the left. Five young women, who turned out to be paralegals, were asked to move from one of the rows set aside for relatives of the litigants. They were replaced by several young members of the Westmoreland family. It might have been a wedding. It might have been anything. It could not possibly make sense to anyone who was not an American. It might not make sense to anyone at all.

"Hello," Mrs. Westmoreland said to someone who was about to pass her in the crowded aisle. "Oh, Mike, I'm so glad this is over." Mike Wallace stopped and leaned over, as though greeting an old friend, or a veteran from the same unit, in the same campaign. "Let's get together," he said to Mrs. Westmoreland. "Oh, let's," she said. "I mean it," Mike Wallace said. "Let's really get together and let our hair down." Mrs. Westmoreland assented to this as though it were the most ordinary thing in the world.

The short proceeding that closed the case seemed unsatisfactory. "I think it is safe to say," Judge Leval said, "that no verdict or judgment that either you or I would have been able to render in this case would have escaped widespread disagreement." Both attorneys praised the jury. Boies cheerfully admitted that he would have liked to give his summation. "It would have been an historic opportunity . . . for me to give my closing summation," he said. "Both of us will miss that. I may miss it more than you do." Burt thanked the jury "for your presence here, at an event that itself becomes a part of history." Then Judge Leval did an extraordinary thing. He said he was going to thank the jurors personally, in the jury room. He invited them to come "back into the courtroom, and meet and talk to counsel, meet and talk to the parties in the case": "You are most welcome to do that. It is not an obligation. You are welcome to do it. There is no rule that forbids it. So you may come out and chat. I am sure that counsel and the parties are eager to shake your hands, and to talk to you about the events of the last five months in this courtroom." And suddenly all questions, of law and of journalism, in this in some ways wildly aberrational lawsuit seemed to evaporate, as litigants, press, family, witnesses, former soldiers, lawyers, jurors milled about, in something out of an American "8½."

In early 1986, a full year after the trial in Room 110 on Foley Square, *Time* admitted, as part of a settlement before an Israeli court, that it had been wrong not just about Appendix B but about the entire discussion at Bikfaya, and that there had been between Sharon and the Phalangists no discussion of revenge. As part of the settle-



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ment, *Time* also agreed to pay some of Sharon's legal fees. Members of the *Time* hierarchy and of the defense team at Cravath still insist, however, that the original paragraph was true, and imply that they had no choice but to settle before what was after all an Israeli court. They also point out that Judge Sofaer, some months after the Sharon case, left the federal bench to accept the job of legal adviser to the State Department, a position in which, they add somewhat darkly, he deals with problems of terrorism and the Middle East. The suggestion of a coverup, including the whole State of Israel and an American judge, thus lingers at *Time* and at Cravath. David Halevy has been assigned to *Time's* Washington bureau, where he recently had three bylines in a single issue of the magazine. George Crile has become a producer of CBS's "60 Minutes."

As for Westmoreland, the lore persists that the two legendary witnesses brought him down, and has been augmented by the widespread notion not only that CBS resoundingly and literally won but that there was an actual jury verdict against Westmoreland and the war in Vietnam. Attorneys and other observers who know Dan Burt use words like "panicked" and "irrational" to describe what happened to Westmoreland's chief counsel in the case. Burt read the daily press accounts of what was happening in court, believed them, and crossed over for reassurance to Boies, chief counsel for the other side, and, as he heard Boies' appraisals and advice, became perhaps more "estranged" from his own staff. Around Boies, who most recently took over for Texaco in the Pennzoil suit, there has grown up another kind of lore, which holds quite simply that he is, as a litigator, invincible.

If there was a conclusion to be drawn from both cases, however, it seemed, rather, this: that received ideas, as so often upon examination in detail, happened to be wrong. The received, the right-minded, the liberal position in both cases was that the press defendants were protecting some valued and fragile Constitutional right against the assaults of whatever ideology was personified by two former military men. The reality had to do, rather, with the fragility, under the combined assault of modern newsgathering and contemporary litigation, of the shared sense of historic fact. More than five years ago, an Israeli newspaper, *Davar*, ran an exposé of a "scandal" to the following effect: that Ariel Sharon had erected, and charged to the government, an enormously expensive fence, to protect the large farm that he owns in Israel. Sharon, insisting that there was no truth to the story, that there was in *fact no fence, demanded a retraction.* The newspaper stood behind its story. Sharon turned to the Israeli press council, asking that the council check to see that there was, around his property, no fence. The press council at first replied that, since Sharon (on account of certain events in his military history) did not come before the council "with clean hands," the council would undertake no investigation. Sharon brought a formal case. In its decision, the council denounced Sharon as, in effect, a brute and not fit to appear before it. The last sentence of the verdict, however, was terse: "There is no fence." CBS and *Time*, as valuable institutions, may have engaged with their attorneys in this major litigation in all good faith. But the facts have a value and a fragility of their own. And there was no fence.

—RENATA ADLER

(*This is the second part of a two-part article.*)

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DEAR ANN LANDERS: This is my first letter to you, but the gripe from "Mary," who complained about names, really got to me. She was upset because some people give their children names like Cheryl and Dawn. Would she be happy if everyone was called Jack or Jill?

My name is unusual. It's a family name and I like it. I am sick and tired of people saying, "Your name is awfully hard to pronounce. Do you mind if I call you Sue?" I tell the rude bozos, "Yes, I DO mind. If I mean so little to you that you aren't willing to make an effort to remember my name, we have no friendship."

Am I unreasonable, as one woman said recently when she wanted to call me by my initials? I leave it to you.—MEXICO, Mo.

DEAR MEX.: Since you did not tell me your name I can only surmise that it is difficult to remember. This is no excuse, however. If it is important to you that you be called by your given name, and you request it, you'll include Beethoven's *Overture, "Prometheus," and Prokofieff's Symphony in D, "Classical."—San Clemente (Calif.) Daily Sun-Post.*

O.K., who's next?

•

NEATEST TRICK OF THE WEEK

[*From the Bryn Mawr/Haverford News*]

Bronner plans to continue teaching history after a year's sabbatical, and return to his scholarly work, including co-writing a volume of William Penn's autobiography.

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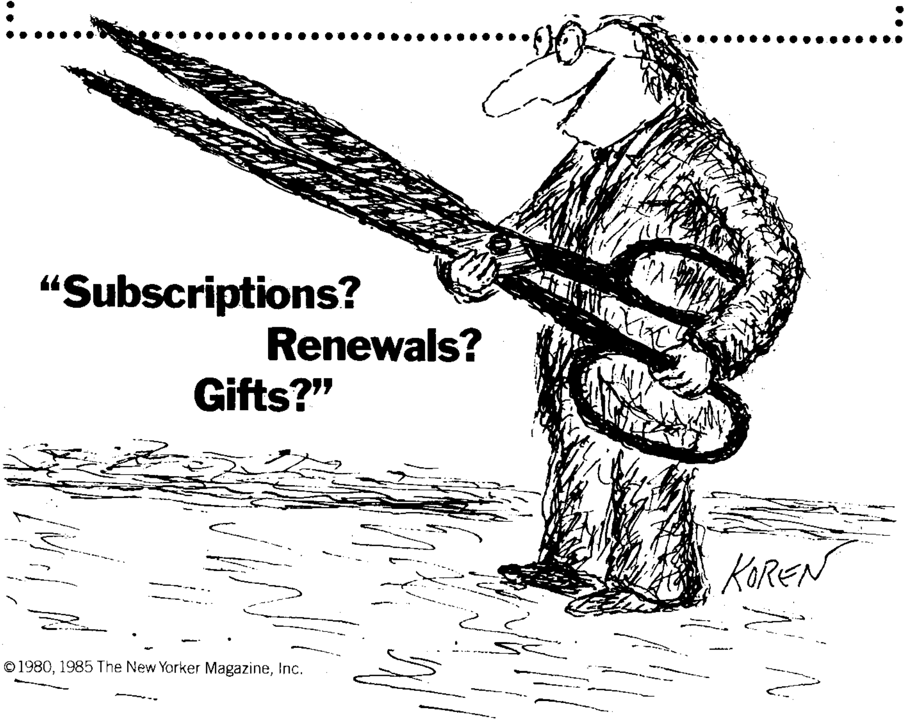
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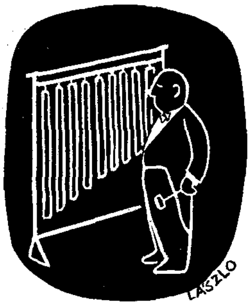
MUSICAL EVENTS

Another Orpheus Sings

THE composers Harrison Birtwistle, Peter Maxwell Davies, and Alexander Goehr, the pianist John Ogdon, and the trumpeter and conductor Elgar Howarth, students together at the Royal Manchester College of Music in the early fifties, for a while made up what was called the Manchester Group, whose contribution to the music of our day has been large. The composers soon pursued separate paths. Music has many mansions; there is no call to play favorites. But many people—increasingly many since the Birtwistle fiftieth-birthday concerts and the appearance of the orchestral piece "Secret Theatre," in 1984—agree with Stephen Walsh's estimate of Birtwistle in the New Grove: "the most forceful and uncompromisingly original British composer of his generation." Pierre Boulez has ever been his champion, in New York, London, and Paris. Birtwistle's orchestral piece "Earth Dances," given its first performance by the BBC Symphony earlier this year, was hailed as a new "Rite of Spring." His opera "The Mask of Orpheus," given its first performance last month by the English National Opera, was called by the critic of the London *Times* the second "perfectly satisfactory reinvention of opera since Stravinsky"—the first being Birtwistle's earlier opera, "Punch and Judy." His third opera, "Yan Tan Tethera," a pastoral tale (its title "one two three" in Pennine shepherds' numbering of their sheep), is to be produced in London in August. "The Mask of Orpheus," billed for eight performances and a BBC broadcast, has been drawing full houses.



Birtwistle's music is not easy to describe. Varèse and Stravinsky are early influences on it, and then it goes its own way, owing nothing to exemplars or schools. Among its features are a fondness for monody, for a strong single line of discourse generating its particular harmonies and lending a protagonist-with-chorus aspect to many passages; a "gestural" kind of utterance which suggests sounds turned into shapes; and unhurried, deliberate progress that calls for long-span listening and gives a processional quality to several of the scores. But against the image of a score moving past the listener must be set that of a listener moving through the score. Some Birtwistle compositions are likened to landscapes, fixed in their features but revealing different views to the beholder-listener as he traverses them by different routes. Titles such as "An Imaginary Landscape," "The Fields of Sorrow," and "Silbury Air" emphasize this analogy, and the composer has often invoked it when talking about his work. Above all, there is a concern for structure which places Birtwistle among the least "self-expressive" and most rational and objective of composers. He would probably assent to a Pythagorean view of music as numbers made manifest; numbers play a part in forming the features of many of his works. This does not mean that the music is schematic, or predictable in its progress. In Paul Griffiths' "New Sounds, New Personalities" (Faber)—conversations with twenty British composers of the nineteen-eighties—Birtwistle says:

> For "Secret Theatre" I drew up a lot of pre-compositional ideas about how things could progress, how they could get from point to point; I constructed a whole map, as it were. But then in the process of composition, in the journey, I went other ways.

Similarly, in an interview that closes Michael Hall's monograph "Harrison Birtwistle" the composer says:

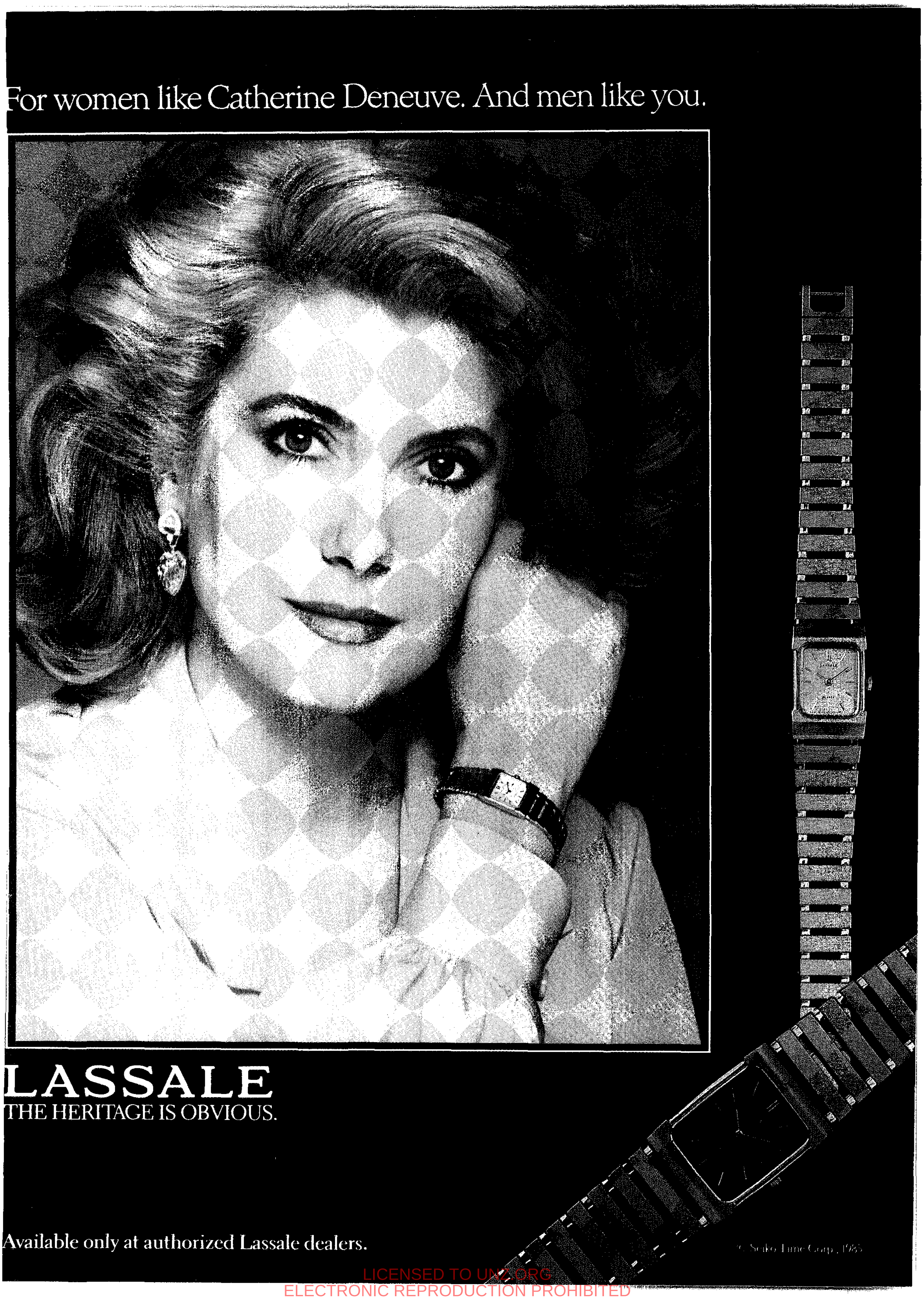
> You can create a formal position before the event, an elaborate schemata, and that you can call your idea. That's what you're trying to express. You have a duty to that schemata, a duty to that initial idea. But in the process of composition you make contexts which are not necessarily concerned with it. Other things are thrown up which have a life of their own and are just as important. You now have a duty to two things.

He tells of starting a work in a playful, improvisatory way: "That's how most of my pieces begin. I indulge my fantasies: I allow intuition to take over. . . . But intuition only takes you so far. After that you need a method of working which enables you to manipulate the material." He stresses a composer's responsibility to his material; likens himself to a dry-stone waller, finding the exact, fitting place for each piece of material that comes to hand, and to a medieval carver: "I carve the stone or the piece of wood to make the object I want, but there are elements in the material beyond my control. So the essential nature of the stone or the wood remains inviolate. It has a life of its own."

One more significant quotation: "Everything I've written is a multiple object. What is shown at any one time can only be a facet of it. I can never show its entirety." For further discussion of layers and levels, of pulses, of timbre, of fixed points and freedoms, and of the elusive notion of an "ideal" work whose features can be discovered and revealed only a few at a time, I recommend Mr. Hall's book. It appears in that valuable series The Contemporary Composers, published by Robson, and distributed here by Universe. But words alone cannot suggest what makes Birtwistle's music an adventure different in kind from any other. One must hear it. Alas, although a fair amount of it has been recorded over the years no disks remain in the domestic catalogue.

ORPHEUS is the incarnation of music's power over the souls and actions of men. The first operas, Peri's "Euridice" and Caccini's "Euridice," and the first great opera, Monteverdi's "Orfeo," told of him. When opera was in need of reform, of a return to first principles, Gluck retold the tale. Wagner gave Orphean attributes to two of his heroes, Tannhäuser and Walther von Stolzing. Stravinsky, Hans Werner Henze, and Elliott Carter are among the many later composers who have been inspired by thoughts of Orpheus. Like Apollo and Dionysus, whose myths are linked with his, he moves through Western music: a divinely inspired musician so eloquent and persuasive that none can resist him, yet a fallible mortal, unable to achieve his goal. The artist triumphs; the man falters, and loses his Eurydice. Faust, another type figure of Western art, embodies ambitious, aspirant man. But Orpheus—Apollo's son, by some accounts—is a mediator between gods and men, and the founder of a religion whose followers called themselves children of the starry heavens and the fruitful earth.

When Peter Hall, due to become the artistic co-director of Covent Garden, approached Birtwistle about an opera, in 1970, the composer at first considered a "Faust." He was already at



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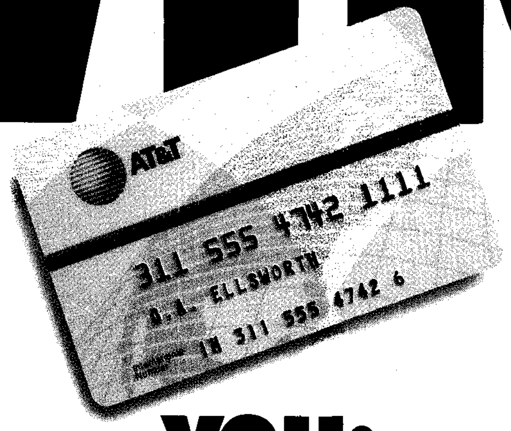

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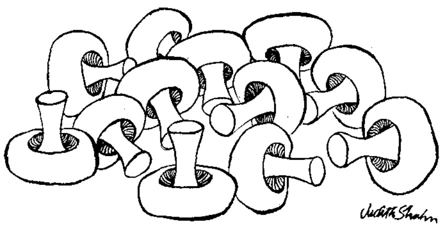
work with Hall on an "Orpheus" for London Weekend Television, and this then became the subject of the new opera. In a series of "Orpheus"-related works—notably "Nenia: The Death of Orpheus" (1970), "Meridian" (1970-71), and "The Fields of Sorrow" (1971), a setting of Ausonius' lines about lovers wandering in Avernus—he moved toward the opera, discovering methods, testing preoccupations, laying foundations. The first two acts of "The Mask of Orpheus" were composed in 1973-75, when Birtwistle was in America, teaching at Swarthmore College and then at the State University of New York, Buffalo. Covent Garden dropped the piece (Hall never took up his appointment there); Glyndebourne dallied with it; and Birtwistle resumed work on it only in 1981, when the English National Opera, fortified by a generous gift from an anonymous American donor, promised a production. Act III was composed in 1981-1983. (It was preceded by "On the Sheer Threshold of the Night," a madrigal setting of Boethius' verses about Orpheus and Eurydice.) Meanwhile, Birtwistle had been since 1975 the music director of the National Theatre. His major National Theatre scores are the music in Hall's production of the "Oresteia" and the music-theatre piece "Bow Down;" and his most widely heard score must be the incidental music for Peter Shaffer's play "Amadeus."

The libretto of "The Mask of Orpheus" is by Peter Zinovieff, who both as a writer and as the creator of an electronic studio has worked with several composers. (The text of "Nenia" and the electronic realization of Birtwistle's "Chronometer" are by him; Henze's "Tristan" is dedicated to him.) The word "Mask" suggests at once a connection with "masque"—a symbolic enactment in song, dance, and spectacle—and a sense of deeper meanings beneath any surface. The work, Zinovieff explains in a preface to the libretto, "tends to the Aristotelian view that Orpheus did not exist as an individual but is a collective inheritance"—which "enables any aspect of the diverse mythology to be treated as equally possible." The grand progression is linear—from the birth of Orpheus and his mastering of speech, then song, to the silencing, by Apollo, of Orpheus' singing skull, which after his death continued as an oracle. But within the opera time moves at different paces, leaps episodes, doubles back. We see several times the first death of Eurydice (once in alternative versions simultaneously, as, on one bank of a river fleeing from and on the other yielding to Aristaeus, she is bitten by the serpent); several times her second death, when Orpheus turns to look at her; and several times the various deaths of Orpheus recounted in different legends: by suicide, felled by a thunderbolt from angry Zeus, dismembered by maenads.

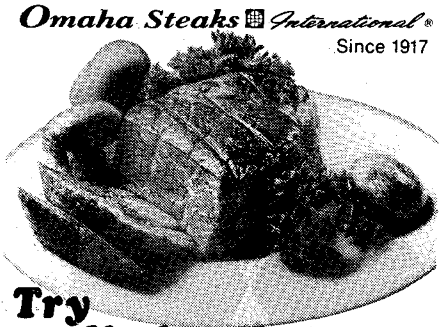
The structure of the opera is intricate. Act II—Orpheus' dream of his descent to and return from the Underworld—has an "imaginary construction" (not represented on the stage) of a seventeen-arch viaduct, bearing a flow from the mountainside of the dead to that of the living. Each arch opens onto a different landscape, associated with different objects and different emotions. Act III has an underlying form of (imagined) tides advancing and receding on a beach, covering or revealing (imagined) symbolic objects. A superimposed structure is that of a three-part Orphic ceremony—a Marriage and a Funeral in Act I, a Sacrifice in Act III—which suggests that all the rest may be parts of the same Orphic ritual presented in other than ceremonial modes. Six times, moreover, the action of the opera "freezes" while a troupe of mimes, to electronic music, enters to enact a tale. Three of the tales are violent and deal with Dionysus: the Titans' dismemberment of the god and his reconstitution by Rhea, the death of Lycurgus, and the death of Pentheus. (These, we are told, reflect the murder of Orpheus.) Three are lyrical metamorphoses: Adonis and the anemone, Hyacinth, and Dryope and the lotus. (These reflect Orpheus' love for Eurydice.) The three-hour opera is divided into three (unequal) acts—summer, winter, and spring—of three scenes each. There are a hundred and twenty-six named "events" in the action, three of each kind: Three Arias of Prophecy, Three Screams of Passion, Three Poems of Reminiscence, etc. The three principals (Orpheus, Eurydice, and Aristaeus) are given each a threefold representation: by a singer, a mime, and a puppet. Much of Act III is uttered in an invented language, built from phonemes in the names Orpheus and Eurydice. The libretto includes a glossary and brief syntax. All in all, it is a formidable document, packed with charts, tables, diagrams, drawings, timings. It resembles a film script as much as a conventional libretto. From my brief characterization of Birtwistle's music one important twentieth-century influence, that of film, was omitted. Elliott Carter has told how the general plan of his First String Quartet was suggested by Cocteau's film "Le Sang d'un Poète," which is punctuated by slow-motion sequences of a dynamited chimney—images of "interrupted continuity" establishing "the difference between external time . . . and internal dream time." Michael Hall quotes a passage from Ralph Stevenson and J. R. Debrix's "The Cinema as Art" most relevant to "The Mask of Orpheus" if for "the cinema" we read "music," and "stage" for "screen":



> The cinema can either imitate exactly the time of the physical world, or can modify it radically. By modifying it, the cinema can, as Robbe-Grillet suggests, assemble on the screen, by various means, but principally by montage, something more like the time of our mental than our physical life—a mixture of future, past, and present, passing over some events in a flash, dwelling on others, returning to others. Something less continuous, less predictable, less inflexible than the time of the physical world.

Birtwistle has long been a master of time slowed, time speeded, time stopped, time passing at various speeds. Wagner, with his anticipations, recapitulations, and retraversals of events and his montages of motifs, was another: Wotan's narration in "Die Walküre" and the Norns scene of "Götterdämmerung" are also "a mixture of future, past, and present, passing over some events in a flash, dwelling on others." In most respects, the two composers are very different, but they share a fundamental seriousness about musical theatre, and share, too, a way of transforming and compounding basic myths to make the spectators participants in a dramatic confrontation: between an individual and what might be called the accumulated weight of history, tradition, or, even, the collective unconscious. Wagner did so by nineteenth-century and Birtwistle does so by twentieth-century means.

"The Mask of Orpheus" starts slowly, and the music is slow to form. It becomes richer and richer. Act II



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mounts to a boisterous climax. Act III opens—and continues—with exuberantly theatrical strains that, wise after the event, we can link with the composer's adventures in the National Theatre. The orchestra employed is large: no strings, but four each of flutes, oboes, clarinets, bassoons, horns, and trumpets; three saxophones; six trombones; two tubas; mandolin, guitar, bass guitar, and three harps, all amplified; seven percussionists. The electronic music, composed at IRCAM (with the composer Barry Anderson as a collaborator), is very important, and of three kinds. The Voice of Apollo, created on IRCAM's Chant program, rings out with tremendous divine imperatives. "Aura" sounds, evoking the music of winds and tides and the buzz of Aristaeus' bees, provide "subliminal" backgrounds. The accompaniments to the metamorphosis episodes—sharp, clean, exquisitely controlled episodes, created from computer-analyzed and synthesized harp notes, set apart from the rest—have justly been hailed as some of the most exciting electronic compositions to have come from IRCAM.

THE first page of the English National Opera program book pictures a Tibetan ceremonial dance, high peaks in the background, and carries a sentence from Zinovieff's preface:

> Plato, in "Epinomis," wrote: "I confidently assert, both in jest and in all seriousness, that such a play will, from the many senses it has now, possess a uniform body, and become one from many and will give happiness." This is the difficult task we have given to the producer and designer of our piece.

(Let it pass that the "Epinomis" is assigned to the Plato apocrypha.) David Freeman, the producer (director) of "The Mask of Orpheus," and Jocelyn Herbert, the designer, have fulfilled the difficult task with high accomplishment. Many of the elaborate stage directions in the libretto, the preface says, "while seeming very precise, are allegorical." Others are "symbols, hints, and clues . . . not production or design instructions." And the staging "need not be lavish." We read of in the libretto but do not see onstage the Golden Carriage of Mirrors that bears Orpheus on his journey to and from the Underworld; see sketched in the libretto but do not see onstage—for, like the arches and the tides, they are "metaphorical"—the various two-dimensional and three-dimensional frames within which the metamorphosis episodes are enacted. Mr. Freeman's 1981 production, for the English National, of Monteverdi's "Orfeo" was praised in these pages for its intelligence, directness, and force. He writes about it in the latest Cambridge Opera Handbook, devoted to "Orfeo," calling it not "an interpretation" but "an attempt to tell the story in as allusive, tangible, ambivalent and unsentimental a way as possible." Mr. Freeman's production of "The Mask of Orpheus" was similarly intelligent and direct—uncluttered by directorial frills or fancies, lucid, strong. Miss Herbert's designs were likewise clear and concise. For first encounters with a work in which there is so much to attend to, this presentation was ideal.

Mr. Freeman excels in inspiring singers with a total eloquence in which physical and vocal presence conspire. Philip Langridge, the singing Orpheus, was as vivid a mime during the long, seventeen-strophe aria that makes up most of Act II as was the mime Orpheus, Graham Walters. Mr. Langridge sang nobly, tirelessly, proudly, tenderly. It was a remarkable performance. Jean Rigby, the principal Eurydice, and Tom McDonnell, the principal Aristaeus, were first-rate. The singers of the three roles in puppet incarnation, Nigel Robson, Ethna Robinson, and Rodney Macann, should also be praised. The other main soloist is the Oracle of the Dead, a frenzied high soprano; her music was sung with startling brilliance by Marie Angel. Elgar Howarth, with Paul Daniel his associate in layered passages, conducted what seemed to be a splendidly secure performance. Mr. Anderson and five assistants controlled the electronics, amplification, and sound diffusion. Once again, the English National—which on the day before the première had given a stunning performance of Busoni's "Doctor Faust," another serious, important opera—showed itself to be the model of a modern opera company. —ANDREW PORTER

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Jumbo jets crossing the Atlantic—usually chartered jets—rely on Bangor as a refueling stop. And while the planes are there, the Bangor Airport is a convenient place to have passengers and baggage clear customs. D'Errico says an "international transient turnaround" takes 90 minutes at his facility, compared to one and a half hours elsewhere.—*Maine Times.*

But the scenery is nicer in Maine.

THE ART WORLD

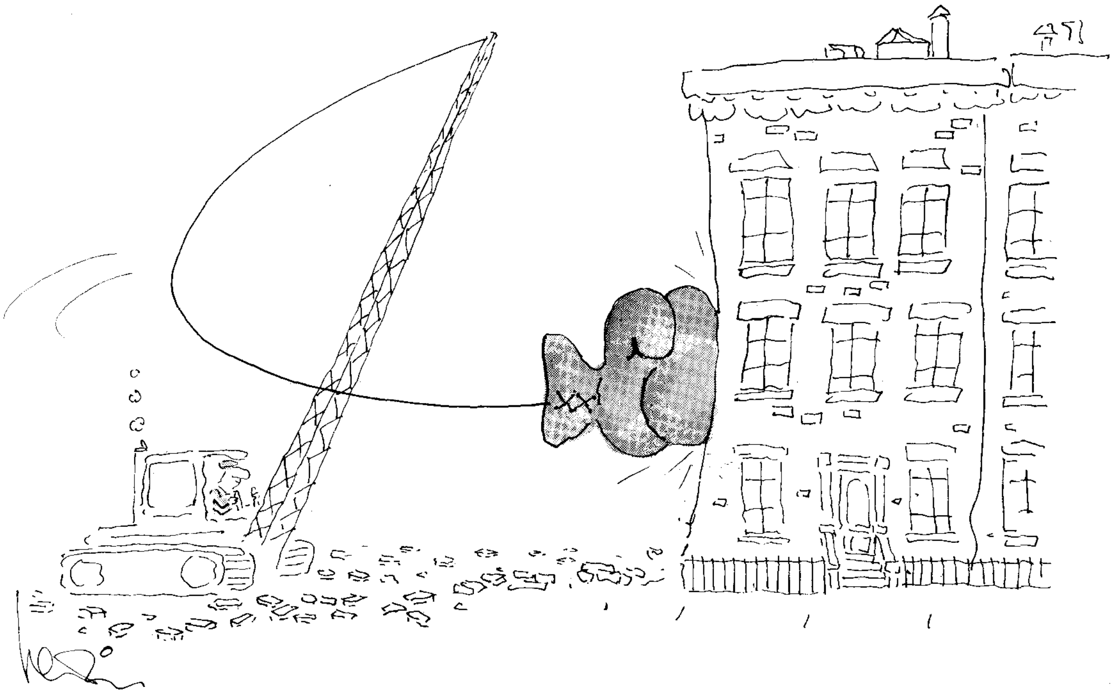
Out of Town

DURING the decades when Paris ruled the international art world, it was often pointed out that relatively few of the major School of Paris artists were actually born there—most of them came from the provinces or from other countries. The same thing could be said about New York today. I would be hard put to it to name more than three well-known New York artists who are natives. (Alex Katz, Helen Frankenthaler, Larry Rivers, and who else?) Out of the first generation of Abstract Expressionists—the famous "New York School"—only Adolph Gottlieb and Barnett Newman were New Yorkers. Willem de Kooning came from Rotterdam; Arshile Gorky from Armenia; Philip Guston from Montreal; Franz Kline from Wilkes-Barre; Robert Motherwell from Aberdeen, Washington; Jackson Pollock from Cody, Wyoming; Ad Reinhardt from Buffalo; Mark Rothko from Dvinsk, Russia; and Clyfford Still from Grandin, North Dakota. It was the same with the next generation (Robert Rauschenberg was born in Port Arthur, Texas; Jasper Johns in Augusta, Georgia), and the next after that, and it is the same with the crop of New York artists now hitting their stride. At this point, though, what with an estimated hundred thousand artists already in situ and fierce competitiveness the necessary condition for survival, a decision to come here is more complicated than it used to be.

I had this brought home to me last month in a series of conversations with four young artists who live in Minneapolis. That city is an unusually congenial one for artists. The climate may be trying in winter, but living expenses are reasonable by New York standards, there are two first-rate art museums in town (the Walker Art Center and the Minneapolis Institute of Arts) and also a very fine art school (the Minneapolis College of Art and Design, which is currently celebrating its hundredth anniversary), and the citizenry has made support of the arts a mark of civic pride. Three local foundations make annual grants to visual artists. The artists I talked with had all won the 1985 Jerome Foundation Fellowship, a five-thousand-dollar grant awarded each year to five young, "emerging" artists. The Jerome program, which is administered by the Minneapolis College of Art and Design, allows its grantees the somewhat dubious privilege of being able to invite three outside critics (or museum curators, or art historians, or what have you) to come to town, visit their studios, and discuss their work. One of the Jerome Fellows had taken his grant money and skipped to the Far East, passing up the visiting critics. The four I met were fairly dissimilar in approach and outlook, as artists tend to be in these pluralistic times. One of the things they had in common, though, was an intermittent struggle with the problem of New York.

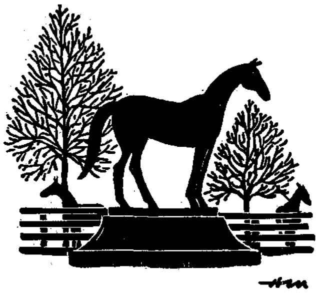
Betina, as she calls herself, is a photographer and a performance artist. Her real name is Barbara O'Brien. She grew up in a small town in Kansas, the oldest of five children, and because her father died when she was five she shouldered adult responsibilities early. At the University of Kansas, in Lawrence, she took a B.S. degree in photojournalism and a B.A. in women's studies, "focussing on images of women in art and literature." After graduating, she got married and moved to San Francisco, where she did publicity work and was a gallery director. By then, she was devoting a lot of her spare time to making photographs—formally composed pictures taken with a Polaroid SX-70 camera. Eventually, her photographs became less formal—less like paintings and more like snapshots. Each one was a vignette in a continuing narrative, based on her life and her family. The birth of her first child (she now has two, a boy and a girl) was what nudged her into performance work. "I'd always been sort of quiet and withdrawn" she told me, "more a listener than a talker. Now I found myself wanting to get other people to tell their stories, but to do it in visual rather than verbal terms." Her first public performance, done in San Francisco in 1981, was a group piece involving her, her son, and a number of other mothers with children under a year old. Soon after that, her husband was offered a job at a nonprofit arts center in St. Paul, and they moved there and bought a house.

Betina's performance work is difficult to describe. It is "mainly personal and autobiographical," she says, "using my body and my experiences." In the fall of 1985, she came to New York for the first time, to perform a work called "Limits of the Heart" at Franklin Furnace, a nonprofit gallery in Tribeca. The subject of the piece was grief and loss. For it, Betina had videotaped a number of women and one man talking about their feelings on being separated from their chil-



dren. In the performance, these videotaped monologues were shown, alternating with Betina's live body movements and actions. The New York audience's response to the hour-long work was immensely exciting for her. "It was so intense," she said. "They were right with it all the way. It really made me wonder about living in New York."

At present, that prospect appears remote. Her two children have priority, she says, and she and her husband could not afford to rent a decent apartment for them in the New York area. Besides, her work is going well, developing its own direction in ways that might not be possible in New York, with its multiple distractions. The narrative strain in her photographs and her performance work, she believes, reflects her desire "to rediscover the sense of an individual in a consumer society." She feels somewhat ambivalent about using photographs of her children in her work—doing so seems to distance her from them, in a sense, and this is troubling. The images and ideas that she works with come from verbal and visual notebooks that she has kept for years. Whenever she can, she spends two hours or more in the evening writing and drawing in her notebook. (In winter, when the outside temperature stays below zero for weeks at a time, she usually works in bed, so as to save on heating costs.) She is not sure that she could have done what she has done if she had been living in New York. But there is very little understanding of her work in the Twin Cities, she says, and no real audience there for her performance pieces.



Peter Latner grew up in Manhattan, in an apartment on the corner of Central Park West and Ninety-seventh Street. He left home to go to the University of Wisconsin at Oshkosh, and liked the Middle West so much that he decided to stay there. After spending another six months in Wisconsin as a newspaper reporter, he moved to Minneapolis and got a job in public relations. His interest in photography dates from an evening course he took with Frank Gohlke, a Minneapolis photographer with a national reputation. Now Latner works as a staff photographer for the Walker Art Center, a job that leaves him a fair amount of free time for his own career.

Latner is fascinated by the rituals and set pieces of the American Middle West. He photographs the street life of small towns, parades and local events, social gatherings, ballgames, Sunday outings. He does this in black-and-white, and without tricks—straight, documentary photographs in what he considers to be the tradition of Walker Evans, Robert Frank, and Eugène Atget. "I want to use the camera to do what I think it does best, which is describe the look of things," he told me. He has a sharp yet compassionate eye. Middle-aged men and women at their leisure, many of them overweight and underdressed, retain their essential dignity in these clear and intricately detailed prints. What he catches over and over is a private moment in a public situation—someone lost in thought, isolated in time.

I was impressed by the authenticity of the work, and said so. Latner, a relaxed, friendly, and unassuming young man, wanted to know how I thought it fitted in with the current art scene in New York, and I had to tell him that I didn't think it fitted in at all. The current art scene is full of photographs posing as paintings, four-by-five-foot Cibachrome prints of narrative scenes that have been elaborately concocted in the studio, photography so manipulated that you often feel it might just as well *be* painting—why bother with the lens? This did not surprise Latner. He has little interest in that sort of photography, and no more than a mild curiosity about the New York art scene. He genuinely likes living in Minneapolis, even during the winter. People leave you alone to do your work, he says, and some people even buy it. Although he is not associated with a gallery (Minneapolis has a number of commercial art galleries), he has sold prints to local corporations, and to private collectors as well. He wants to see about getting a book of his photographs published, and he plans to come to New York to look into that. But there is no rush about it. Probably he will come next year.

Lynn Wadsworth, at twenty-nine the youngest of the Jerome Fellows, is moving to New York in August. She will be a student at the Pratt Institute here, and her husband, David Amdur, who is a painter, has been accepted for the graduate program in painting at Queens College. They have found an apartment in Brooklyn, at something less than the going rates in Tribeca or the East Village. Now they rent the ground floor in a dilapidated but good-sized house in Minneapolis—large enough to provide a separate studio for each of them. Wadsworth is a sculptor. She was born and raised in St. Paul. She started out to be a filmmaker, but the undergraduate program at the State University of New York at Binghamton (a leading center of study for filmmaking as an art form) virtually killed that ambition. She learned how to make structural films, which have much in common with the aesthetics of Minimal and Conceptual art, and she did not see any point in continuing along those lines. At Binghamton, though, she also saw films made by Joseph Cornell, and these led her to the poetic glass-fronted boxes for which Cornell is much better known. Wadsworth lived in Europe for a while after finishing college. In 1981, she came back to St. Paul and began making small, boxlike constructions, on the theme of the Annunciation. Travels in Mexico and Central America followed, and the boxes evolved into stick figures—quirkily human-looking objects whose principal element is usually a tree branch or two that she has picked up and shaped, added to, elaborated with collage elements, and painted in variegated patterns of bright color. Last summer, she was commissioned to make five of her stick figures in large scale (the largest was fourteen feet high) for a temporary installation in a St. Paul park.

Wadsworth has been in a lot of group shows in the Twin Cities, and she has also found regular work teaching in public schools throughout the state. The Minnesota school system has artist-in-residence programs that last anywhere from a week to a year, and Wadsworth is in demand, because she can teach both sculpture and filmmaking. She and her husband have what appears to be a highly satisfactory setup, in fact, which they are about to exchange for something more difficult and a lot more uncertain. She has no qualms about this, and few illusions, either. "I know how tough it is to live in New York," she said. "And the truth is I like being here. This is such an easy place to live, and so cheap, and we have lots of space to work, and there are all these white-collar buyers and grants and opportunities, and everybody is so *nice*. But I'm also very ambitious. I have a pretty strong sense of myself as an artist. Here in Minneapolis, I guess I know every sculptor in town, and nobody is doing work that's anything like mine. In New York, there will probably be dozens. I just need to test myself against all that energy and competition."

JUDY KEPES came to Minneapolis three years ago, from San Francisco. Before San Francisco, she was at the Kansas City Art Institute, and before that she was in New York—born in the Bronx, moved to Manhattan. (The place to look for emerging New York artists, I now think, is Minneapolis.) She has a New York look and manner—knowing, direct, unfazed. She has had three one-person shows in San Francisco, two of them at the Quay Gallery, and a New York dealer has been after her recently to show some of the ceramics she made two or three years ago, which are in storage in New Jersey. Kepes seemed more confident than the three other artists I talked with, and also more prone to self-doubt.

Unlike the others, she saw a lot of art while she was growing up. Her parents took her to museums and galleries here and in Europe, and they encouraged her artistic inclinations. After one semester at the Rhode Island School of Design, she decided to study painting at the Kansas City Art Institute, and it was there that she got interested in ceramics. One of her painting teachers tried to discourage this, told her she had to devote herself exclusively to painting; her reaction was to quit the painting program in favor of ceramics. Later, she transferred to the San Francisco Art Institute, which had a more advanced ceramics department. She stayed in San Francisco for several years, getting a bachelor's and a master's degree in fine arts, getting married, and learning about the dangers of early success in the art world. After a highly successful first show of clay sculptures at the Quay Gallery, in 1978, strangers started calling her at home. "Are you the artist who makes those ceramic wall plaques?" one woman wanted to know. Kepes wanted to yell back, "No, I'm not. I made them, but I'm not making them anymore. I'm making something else." The pressure was so intense that she didn't show her

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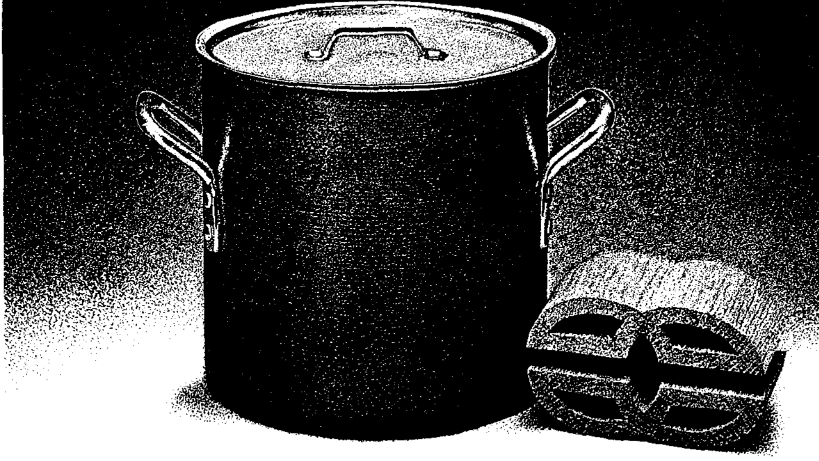

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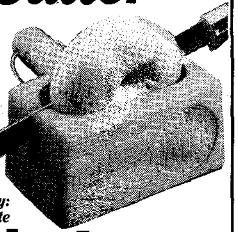

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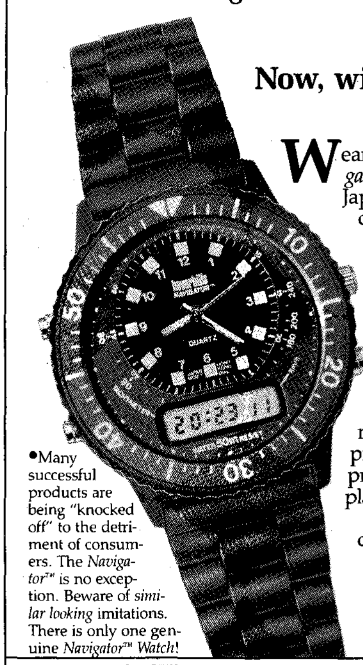

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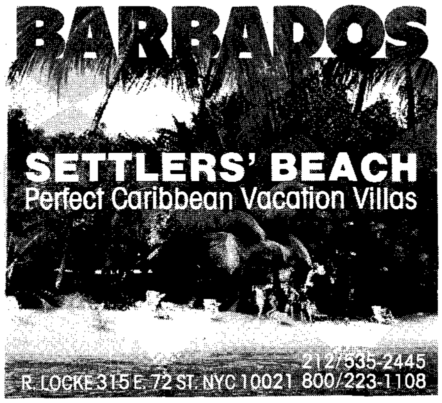

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work in public again for three years. In the meantime, her personal life went awry. She came to Minneapolis in 1983, to stay for twenty-eight days. "Minnesota is the treatment center of the world," she said. "I came to be treated for a chemical dependency, and I could hardly wait to leave. But then I looked around, and I've been here ever since."

She got a job as an assistant to the chairman of the Fine Arts Department of the Minneapolis College of Art and Design. The salary was low, but it included the use of a big studio in the basement of the administration building, and that is where I saw her work. Two kinds of work: small ceramic pieces (the earlier ones semi-functional—teapots with strange angles and tilted planes—the later ones abstract) and large figurative paintings, oil and acrylic on paper, in which the recurrent images were two nude figures, one female, the other a male with a stag's head and branching antlers. The impetus for the paintings, she said, was a workshop she had attended on sexual abuse of women; also, a book she had read about the King Arthur legend, in which there figured a primitive rite involving the killing of the King Stag. On the wall where the paintings were tacked up there were also some drawings for big ceramic pieces, which she wanted to put together with the paintings in a single installation, but she wasn't sure if this was going to work out. It was an idea she had been thinking about for some time—the kind of high-risk idea that occurs to artists in New York.

Kepes thinks now and then about going back to New York. "I even have a place there," she said, "on Eldridge Street, on the lower East Side. I miss the energy of New York or San Francisco, and the chance to look at other people's work. Maybe ninety per cent of what you see there is bad, but the other ten per cent just blows your head off: Wow, look at that! At the same time, I've got a real hesitation about being down there on Eldridge Street in July—ninety degrees outside and no way to get out of town. I know all about that. I may go back in a year or so, but right now I like being here." —CALVIN TOMKINS

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JAZZ

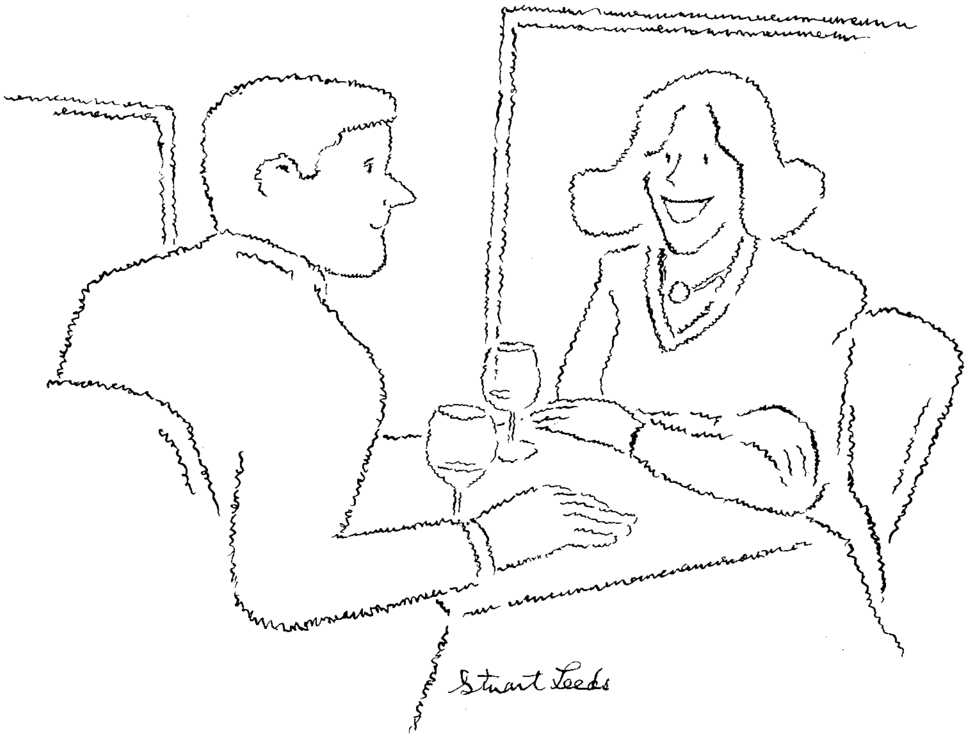
Poets Needed

A NEW repertory group, the American Jazz Orchestra, has been brought into being by the critic Gary Giddins. John Lewis is its musical director, and Cooper Union, where it gave its first concert, in mid-May, is its sponsor and base. The notion of trying to preserve and reproduce an improvised music was first sanctified during the winter of 1973-1974, when the National Jazz Ensemble, headed by the bassist and composer Chuck Israels, gave five concerts at Alice Tully Hall, and the New York Jazz Repertory Company, headed by Sy Oliver, Billy Taylor, Gil Evans, and Stanley Cowell, gave fifteen concerts at Carnegie Hall. (There were earlier repertory attempts: the neo-New Orleans music of the early forties; the re-creation of the Fletcher Henderson band, with many of its original members, at the Great South Bay Jazz Festival in 1957; the Red Allen, Count Basie, and Billie Holiday segments of the CBS television show "The Sound of Jazz," given later that year; and Duke Ellington's constant refurbishings of his own old beauties.) The National Jazz Ensemble, using sixteen pieces and imaginative arrangements, favored the small-band music of the forties, fifties, and sixties, but it took as its theme a near-showstopper from 1927—a unison transcription, played by the entire band, of Louis Armstrong's solo on his Hot Five version of "Struttin' with Some Barbecue." The New York Jazz Repertory Company, using a pool of a hundred or so musicians, did everyone from Bix Beiderbecke to John Coltrane, often with elephantine results. Both groups lasted several seasons and died from public apathy and a lack of funds. But jazz repertory has continued in one form or another. Dick Hyman and Bob Wilber have re-created the music of King Oliver, Jelly Roll Morton, Sidney Bechet, James P. Johnson, and Duke Ellington, and Vince Giordano has done various dance bands of the twenties, thirties, and forties. Harvey Estrin has brought the Sauter-Finegan band back to life in several concerts at the 92nd Street Y. Lee Konitz has assembled a nonet that bears a close resemblance to the Miles Davis group of 1949. Panama Francis has resurrected the Savoy Sultans to great effect, and Paul Whiteman has been done admirably by Dick Sudhalter and Maurice Peress. The Classic Jazz Quartet, with Sudhalter, Joe Muranyi, Marty Grosz, and Dick Wellstood, is, in its way, a repertory group that gets far inside the small-band music of the twenties and thirties. And Sphere and Dameronia have revived Thelonious Monk and Tadd Dameron. But Gary Giddins feels that the time has come to institutionalize such homegrown attempts. He recently wrote in the *Village Voice:*

> The next step, it seemed to me, was to create permanently housed jazz ensembles under the auspices of arts centers. They would have to be every bit as stable, secure, and accomplished as the orchestras that conserve nineteenth-century European music in practically every major city in the United States. Under the batons of great conductors (a relatively new line of work in jazz), such orchestras would not only reclaim and refurbish seventy years of indigenous music, but provide a stream of commissions to contemporary composers.

But the problem of how to re-create an improvised music has never been completely solved. Many solutions have been put forward. Recordings have been transcribed note for note and played either note for note or with new solos. Old solos have been transcribed and scored for reed or brass sections, then incorporated into old arrangements. Old solos have been used as the basis of new improvisations. But what of these stubborn questions: Why reproduce, say, Jelly Roll Morton's 1926 "Doctor Jazz" when the original recording is available and clear? Is it more informative and enjoyable for an untutored audience to hear the number imitated in the flesh than to hear the original record on decent sound equipment—particularly since audiences tend to listen with their eyes instead of their ears? How do young musicians re-create music originally played in a combustible, semi-intuitive manner? How do they get inside the music rhythmically? (Tone and timbre can be matched with relative ease.) And what of the fact that many old recordings failed to capture their subjects faithfully, whether because of poor sound, misguided supervision, time limitations, or nervous musicians? These recordings may be fixed in our ears, but they are nonetheless false. A theatrical repertory company works from a true text; a jazz repertory company works from old, often unreliable recordings, improvisation frozen by time, and an array of unorthodox attacks and timbres. Poets, not copyists, are needed for such work.

The American Jazz Orchestra concert, given in the Great Hall at Cooper Union, didn't solve any problems, but it inadvertently advanced one that



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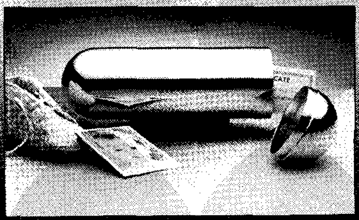

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didn't exist in 1973. The National Jazz Ensemble and the New York Jazz Repertory Company had on tap many musicians who had played the original music or known it first hand. It was going home for Budd Johnson to do an Earl Hines concert, for Joe Venuti to do the Blue Four, for Cozy Cole to do Cab Calloway, for Taft Jordan to do Chick Webb, for Ray Nance to do Duke Ellington. Most of these musicians have died, and Giddins and Lewis have had to call in musicians who came up in bebop or hard-bop days (Hank Jones, Dick Katz, Jimmy Heath, Eddie Bert, Jack Jeffers, Jimmy Knepper, Ted Curson, Major Holley, Charli Persip), or even more recently (Jon Faddis, Randy Brecker, Marvin Stamm, Craig Harris, John Purcell, Hamiet Bluiett). The program included Fletcher Henderson ("Big John Special," "Wrappin' It Up," "King Porter Stomp"), Duke Ellington ("Cottontail," "Concerto for Cootie," "Jack the Bear," "Harlem"), Jimmie Lunceford ("For Dancers Only," "Lunceford Special," "Yard Dog Mazurka"), Count Basie ("Taxi War Dance," "Jive at Five," "Every Tub," "One O'Clock Jump"), and Dizzy Gillespie ("Confirmation" and Slide Hampton's "Fantasy on 'Shaw 'Nuff' and 'Anthropology' "). There was tentativeness everywhere. Charli Persip never took hold (there are few things more tonic than a big band in full shout, with a Sid Catlett or a Sonny Greer or a Jake Hanna in command), and John Lewis's tempos tended to be too slow. The ensemble passages didn't have much snap; there was very little *swinging*. The fresh solos were often better than the re-created ones (Loren Shoenberg's Lester Young on "Taxi War Dance" was an exception, and so was Virgil Jones' open-horn section of "Concerto for Cootie"), and notable among them were Jimmy Knepper's two triumphant choruses on Hampton's "Fantasy," Hamiet Bluiett's swaggering on "Jive at Five," and, on the Hampton, Dizzy Gillespie's soft, slippered exchanges with Jon Faddis, who, as is his wont, overblew. Probably the most successful piece of the evening was Ellington's "Harlem," a twelve-minute tone poem commissioned by the NBC Symphony in 1950. Maurice Peress conducted with great verve, and the band responded. Gary Giddins made onstage comments about the music between sections, and, though to the point, they recalled the days when jazz was armored in apologetics. Let us hope that future concerts will enlist such magical reproducers of old music as Dick Hyman, Howard Alden, Vince Giordano, Dick Sudhalter, and Dick Wellstood, and also Bob Wilber and Scott Hamilton, both of whom would have added a great deal to the Ellington the other night. Let us hope, too, that newly commissioned pieces will be carefully weighed; many of the new pieces done in the past by repertory groups have turned out to be all wind and motion.

THE Leaders is a six-piece all-star band formed a couple of years ago for the purpose of touring European jazz festivals, and it made its first New York appearance at Sweet Basil the last week in May. It included Lester Bowie, replacing Don Cherry on trumpet; Arthur Blythe on alto saxophone; Chico Freeman on tenor saxophone; Kirk Lightsey on piano; Cecil McBee on bass; and Famoudou Don Moye on drums. The group falls somewhere between hard bop and the avant-garde of the sixties and seventies. (Most of its members are in their forties.) It has been marked by the rhythmic practices of Charlie Mingus and by the parodic and eclectic tendencies of the Association for the Advancement of Creative Musicians. Bowie and Moye are early members of the Art Ensemble of Chicago, which came out of the A.A.C.M., as did Chico Freeman; Lightsey has played for Dexter Gordon and been an accompanist to singers; McBee has worked with everyone from Miles Davis to Sam Rivers to Freeman; and Blythe is an adaptable and excitable post-Coltrane player. The group didn't do much at an early set late in the week. There were three long numbers, and the disappointingly brief ensembles were in vague unison or in free form. The rest of the time was taken up by solos. Freeman is the most impressive member of the group. He has something of Paul Gonsalves' inner-directed flow (but none of his sly subtlety), and he has a sure, rich sound. Bowie, dressed in his customary doctor's white coat, is a wag. He likes to anthologize other trumpeters' licks (Cootie Williams, Dizzy Gillespie, Miles Davis), and he is not above making neighing sounds. Blythe gives the impression that he is floating above his materials. Moye is a good melodic drummer, but he is overbearing, and that caused Lightsey and McBee to shout in order to be heard. The group's closing number, a short parody of "Blueberry Hill," had a thunderous afterbeat, and it swung harder than anything that had come before. The parodied strikes back!

THE great violinist Stéphane Grappelli appeared during the same week at the Blue Note, and he has lost none of his lyricism and exultant melodic flow. (He had Marc Fosset on guitar and John Burr on bass.) His white hair still pours down the back of his head and over his collar, and he keeps his imperious nose pointed into the winds of his invention. He played more than a dozen numbers, all short, all famous, and all distinguished by his lovely sound and his endless traceries. He also played several numbers on the piano, and recalled the Art Tatum of more than fifty years ago. The amplification system marred his numbers on the violin. He sounded as if he were playing on the far side of a huge hall. When Grappelli was told of this, he said, "When it is good—the *électrique*—it is pure luck."

BOBBY SHORT, in his nineteenth season at the Café Carlyle, has slowly become a first-rate jazz singer. (He grew up in the shadow of Duke Ellington and Ivie Anderson and Fats Waller, and only later fell under the sway of Hildegarde and Mabel Mercer.) His voice has grown husky and his phrasing legato. Art Tatum and Earl Hines spark his piano playing. The Café audiences behave better than they used to (he is no longer a mascot but a celebrity), so he has been able to set aside much of his clarion attack. His diction remains startling: every song is three-dimensional. Robbie Scott, his present drummer, matches Short's rhythmic vagaries. Beverly Peer, his excellent longtime bassist, joined Chick Webb just fifty years ago.

—WHITNEY BALLIETT

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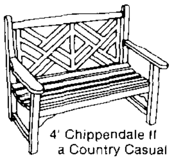

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BOOKS

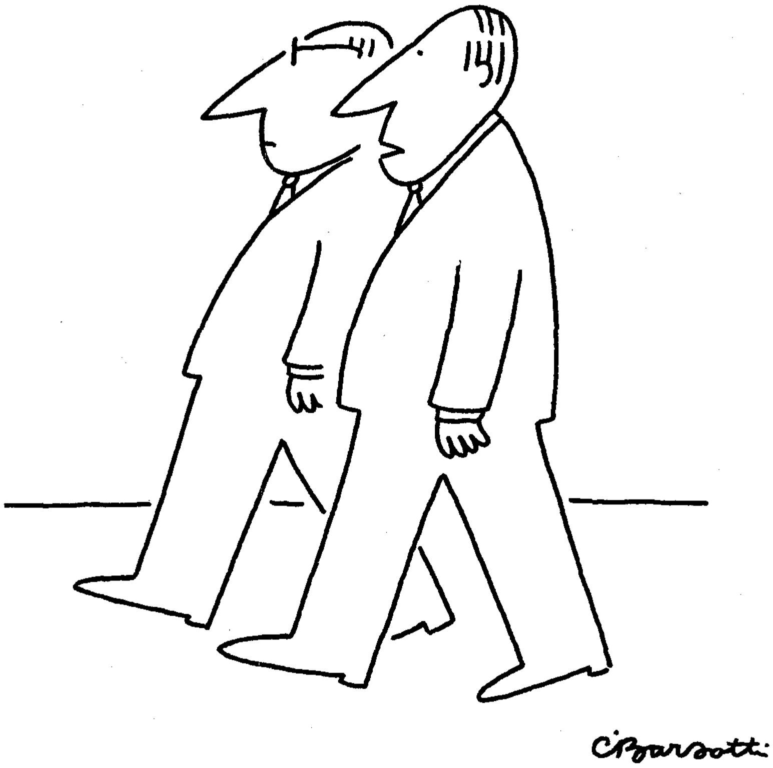
Crash

"MAYDAY: EISENHOWER, KHRUSHCHEV, AND THE U-2 AFFAIR," by Michael R. Beschloss (Harper & Row; $19.95), recalls a moment, a quarter of a century ago, when the President of the United States and the ruler of the Soviet Union wanted the same thing (disarmament) at the same time (1960) for the same reason (to save money) and were unable to get it. The author recounts the tentative steps toward détente, despite the fear between Russia and the United States and despite American uncertainty about Soviet military capabilities and intentions. Our recourse against surprise attack was technological: the invention of an airplane, the U-2, that flew higher than any other in existence, above the range of Soviet anti-aircraft, and, starting in 1956, crossed over the Soviet Union photographing military sites. These secret overflights were picked up by Soviet radar, but neither Soviet fire nor diplomatic protests stopped them until, on May 1, 1960, a U-2 crashed on Soviet territory. Thereupon, Nikita S. Khrushchev, in a blaze of undiplomatic protests, wrecked a summit meeting—called for May 16th, in Paris—that the world had hoped would inaugurate a new era of international moderation. The author has had access to documents that only recently became available, and has interviewed Americans with firsthand knowledge of this episode, but, for many reasons, including a lack of Russian sources and our own technological-military *omertà*, he does not pretend that he has been able to tell us everything. Mr. Beschloss's modesty makes an engaging frame for his achievement: he has told us more than anyone else so far, and told it with clarity and intelligence.

The story really begins with Stalin's death, in March of 1953. Dwight D. Eisenhower, who had been elected President the previous year, hoped that Stalin's successor might be willing to abate the arms race, and in December proposed that the nuclear powers start to decrease their atomic stockpiles by contributing to a United Nations "Atoms for Peace" agency. The Soviets refused. In 1955, at a summit meeting in Geneva, the President offered an "Open Skies" plan to verify arms-control agreements by aerial photography and so obviate Russian objections to on-site inspections by foreigners. The Russians rejected it, too, but the fact that they had agreed to meet at all seemed promising.

Our need for intelligence about Soviet military capabilities remained acute even after we changed from thinking about war to thinking about disarmament—particularly after 1957, when Russia orbited its first satellite, and Nikita Khrushchev, who by 1958 had attained Stalin's dual leadership of the Soviet Communist Party and the Soviet state, boasted that these feats of Soviet rocketry proved that the Russians had an enormous force of nuclear-armed missiles. He puzzled Westerners by alternating menace and invitation, by sugaring intransigence with sentimentality, and by actions at odds with each other: in 1958, he suddenly gave the West six months to get out of Berlin; in early 1960, he ordered a reduction in Soviet armed forces. Yet he may have contributed most to the debacle of 1960 not by intemperate speech but by inexplicable silence: he ceased protesting U-2 overflights. When Eisenhower and Khrushchev met privately at Camp David in the fall of 1959, Khrushchev did not mention them, nor did he protest the penultimate overflight, in April of 1960. Americans inferred from his silence that the Russians had tacitly accepted our overflights as equivalent to their espionage.

From the beginning, Eisenhower was more sensitive to the diplomatic risks that overflights entailed than any of the other Americans who knew about them. He limited the frequency of overflights and, as early as 1958, began to talk of ending them. When Americans grew alarmed by Khrushchev's references to his missile armada, Eisenhower rejected the suggestion of his Secretary of State, John Foster Dulles, that he tell the public we had photographic evidence that there was no "missile gap." Eisenhower wanted to save Russian face, and his superior judgment has become evident in recent studies of his Presidency on which this author has drawn. However, Mr. Beschloss also sees drawbacks to Eisenhower's "hidden-hand" conduct of the office: he believes that if the President had consulted widely among American experts on the Soviet Union they might have corrected the mistaken inference



"I've seen 'Top Gun,' 'Raw Deal,' 'Short Circuit,' 'Cobra,' 'Invaders from Mars,' 'SpaceCamp,' and 'Wise Guys,' but in August I'm going to join Mary and the kids on the Cape."

that Russian silence gave consent.

With all the evidence at our disposal, mysteries remain. We are not absolutely certain how or why the U-2 crashed. We do not know why Khrushchev handled the event so as to create the maximum embarrassment for the United States and its President, by trickling out bits of news and waiting six days before he announced that the U-2 pilot was alive—days during which this government put out one lame cover story after another until the President decided he had no choice but to admit that we had been spying and to accept responsibility. Or why, after a barrage of insults, Khrushchev went to Paris, where, failing to humiliate the President further, he broke up the meeting before it opened.

Mr. Beschloss suggests that Khrushchev was less powerful at home than the West thought, and that his unpredictability reflected the pressures of colleagues and rivals who opposed disarmament. The author is careful to offer this reading as theory, not fact, and equally careful to refrain from arguing that if the U-2 had not flown (or fallen) on May 1st the summit would have succeeded, for if Khrushchev's control of Soviet policy was limited he might not have been free to concede much of anything in 1960.

The ostensible reason for Khrushchev's anger—overflights—has evaporated in our and the Soviets' acceptance of espionage by satellite; indeed, at the time, de Gaulle told Khrushchev that his tantrums were inappropriate, considering that a Russian satellite overflew France eighteen times a day. The U-2 episode, in Mr. Beschloss's recital of it, resembles nothing so much as a dress rehearsal for all the failed East-West negotiations since then, with their familiar problems, including the difficulties of communication between divergent political cultures; our allies' ambivalence and conflicting demands; informing the American public and involving it in foreign policy without overstatement or oversimplification; and, on the Russian side, each successive leader's difficulty in trying to clean up the mess he has inherited without setting off another revolution. Mr. Beschloss has conveyed all these problems in action very well, and he has also taken pains to tell us about the U-2 program—how pilots were selected, what kind of men they were (not "C.I.A. agents, but . . . daredevil pilots"), what their tours of duty were like—and has given us a full and unbiased account of Francis Gary Powers, the pilot who crashed. In so doing, the author not only widens our understanding of this incident and conveys the feel of the day-to-day conduct of the Cold War but demonstrates the effect of another problem, this one domestic—the problem of service.

At some time after 1950, employment in the United States shifted from a predominance of workers engaged in production to a majority providing services. Reams of learned opinion greeted this phenomenon, but the most noticeable effect on American life was the deterioration of every kind of service, from health care to automobile repair. In this volume we discover that Powers, an extremely able pilot, apparently did not receive reliable service. The plane he flew on May 1st had a history of mechanical failure. It had been repaired, but, according to another pilot's testimony, it had not been tested after repair. When Powers had completed a third of his journey, the autopilot broke; soon afterward, he saw a flash and lost control of his plane. During his trial in Moscow, in order to guard technical and military secrets he had withheld under interrogation, he said that he had been shot down at an altitude of sixty-eight thousand feet; the Russians claimed only sixty-five thousand six hundred. However, the wreckage that the Russians displayed was too well preserved to make either figure convincing—especially since the aircraft was noted for its fragility. After the author has sorted through the evidence, the reader is likely to conclude that the plane's own malfunction forced it down to a lower altitude before it was hit. The Russians sentenced Powers to prison, and, in 1962, exchanged him for a Soviet spy in one of our prisons. Greatly to his surprise, on returning home Powers had to clear himself of a host of unjust suspicions; he did, but his stalwartness did not receive public recognition. Eventually, he found work of a familiar kind—flying and photographing. He became a helicopter pilot and news cameraman for a California television station. He died in a crash in 1977, because no one had told him that a defective gasoline gauge, which had read "E" when it was half full, had been repaired, so that when he took it up for the last time "E" meant "empty." He received the honor of burial at Arlington.

Powers' misfortunes seem extreme instances of all Americans' experiences of the failure of service which pervades our society. Our household garbage is crammed with defective small appliances no one will repair; we wait for access to our own money while banks loiter and dally in performing the service of clearing deposits; and in public and private business computer failure has become an acceptable excuse for human beings' failure to provide the services their jobs entail. To be sure, Americans, as nineteenth-century European visitors frequently complained, have never been notable for good service, but I substantially discount the Europeans' dissatisfaction, because they sought deference at least as much as service. It is true, though, that for most of the history of our republic agility and innovation have proved more profitable than meticulousness: careful mending of harness made no sense once tractors were available. Then, too, the post-Second World War period of expansion devalued diligence and, in some measure, work itself. The phrase "dead-end job," for example, is the language of prosperity. It carries the implication that work that does not lead to stardom and fortune is not worth doing, even though much unglamorous service, such as cleaning hospitals, is a matter of life and death: the most brilliant surgical procedures will not avail in a nonsterile environment.

American problems often make their début as jokes expressing shared resentment; e.g., the physician pleading with the plumber to make a house call. Our problems seem to need to ripen before they appear as public or political issues. The problem of service seems to have come of age this year, with the crackups of our rockets, the rise of insurance premiums because of liability suits, and the quarrels between physicians and attorneys about malpractice litigation. We may at last be ready to rethink the concept of service. What are reasonable expectations? (Trustworthy maintenance of aircraft, surely.) What are our shared duties? Do we need new definitions of courtesy or consideration, efficiency, and responsibility? And should we seek these definitions—as we have been doing—primarily through litigation? Mr. Beschloss's grand narrative is crowded with well-drawn portraits. It is fascinating to follow great figures

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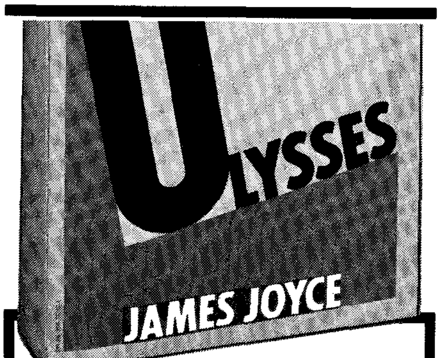

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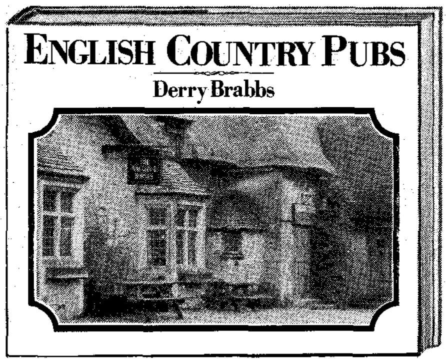

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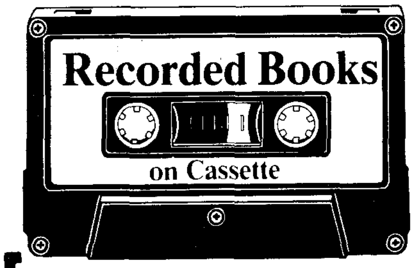

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moving from headlines into history books, and it is equally fascinating to realize how the number of people at work in history has increased in modern times. Richelieu made do with Père Joseph, his gray eminence, but nowadays even the most secret projects require the participation of hundreds (Lee Harvey Oswald makes an early appearance here)—a reason, perhaps, that secrecy is hard to maintain. Of all the huge cast, the figure of the pilot touches me most, possibly because what happened to him—or something similar—could happen to any of us.

—NAOMI BLIVEN

BRIEFLY NOTED

FICTION

KING OF THE GOLDEN VALLEY, by Alan Scholefield (St. Martin's; $15.95). Mr. Scholefield is a writer of a sort all but extinct these days. He writes adventure stories in the great British tradition of Robert Louis Stevenson and H. Rider Haggard and Joseph Conrad and John Buchan—stories set in remote and faraway places, of foul weather and unfriendly nature and men of honor and men of dishonor and the lure of hidden treasure. He tells here of a transcontinental motorcar race in 1910, in the early years of the internal-combustion engine, from Peking to London, and its aftermath in the London and Tibet of today. The characters include two English racers—Captain Edward Hollande, who won the race and became a national hero, and Captain Harry Wynter, who died in disgrace in the Tibetan valley of the title—and Hollande's daughter and Wynter's grandson, who make the hazardous trek into Chinese Tibet in search of the truth about the race. Mr. Scholefield knows the world of 1910 and the forbidden Tibet of then and now, and his novel is good plain old-fashioned entertainment.

LOVE IS THE CROOKED THING, by Lee K. Abbott (Algonquin; $13.95). The ambiguous horizon of the New Mexico landscape on the dust jacket anticipates the atmosphere of these eleven enigmatic stories (some set in New Mexico), which are only barely about rock-and-rollers, bank robbers, Vietnam, and golf. Occasionally, a happy phrase crops up ("a sky like a cheap birthstone," say, or a heart's "thump-whack" just after a golf ball goes "thwock-pock"), but Lee K. Abbott indulges in nouns the way some other writers indulge in adjectives—as if twice as many ("humbug and pluck," "ardors and mordancies," "drift and bent") were twice as meaningful.

GENERAL

THE WAR: A MEMOIR, by Marguerite Duras, translated from the French by Barbara Bray (Pantheon; $13.95). Six hundred thousand Jews arrested in France, a hundred and forty thousand prisoners repatriated: stark figures are all that the author, in the title piece, has to work with, in Paris, in April of 1944, while she hopes against hope for a telephone call from her husband. His return from Dachau is not simple, since he is too weak to walk, much less talk. Once he is back, in their flat on the Rue Saint-Benoît, a different set of figures charts an equally unspeakable war, between one man and death: a hundred-and-six-degree fever, nine cushions to cradle eighty-four fragile pounds, twelve litres of serum in seventeen days. Five other narratives are arranged here in order of diminishing length, and, as it happens, diminishing power. "I'm going to ask you to come with me," a Gestapo agent says in the first of these, savoring the effect of his words on his victim. The next two contrast two collaborators. Some of the author's images are easily translatable—the irony of crutchlike legs, say, and the tragicomedy of Resistance fighters feuding over a stolen cheese. Others, such as *naphtalinés*, or "mothballed ones," are explained in footnotes.

THE CHARACTER FACTORY: BADEN-POWELL'S BOY SCOUTS AND THE IMPERATIVES OF EMPIRE, by Michael Rosenthal (Pantheon; $22.95). An associate dean at Columbia casts a cold eye on the founder of the Boy Scouts. Mr. Rosenthal's notion that Lord Baden-Powell wished both to reinforce the British class system and to strengthen the dominance of Britain in its Empire is a truth, but a partial truth. The historical reality is the radical alteration in the lives of young men as a result of a century of industrialization and urbanization; in every country where these phenomena occurred, organized efforts had been made (in the United States, for example, the Y.M.C.A.) to help young men adapt to industrial society. It should not be startling that the efforts reflected the beliefs of the philanthropists who supported them. Curiously, when Mr. Rosenthal makes fun of the unintellectual and naïve "public-school ethos" he makes it look good. "Playing the game" is, after all, better than cheating; "loyalty" is better than Kim Philby; and the notion that there are some things that are "not done" might well have been taken to heart by the Democratic machine of Queens County, New York.

JOHN SINGER SARGENT: HIS PORTRAIT, by Stanley Olson (St. Martin's; $16.95). John S. Sargent (1856-1925) was considered by many critics the greatest portraitist of his times. "*Voilà le Van Dyke de l'époque!*" said Auguste Rodin in 1902. This biography—the third since Sargent's death—is a quite successful attempt to reconstruct the career of a man who from his student days in Paris never faltered on his chosen path to mastery of his art and to wealth and world fame. It is also an attempt to get at the inner man, and in this it is as much a failure as its two predecessors. Through all his near-seventy years, John S. Sargent (the author tells us that Sargent never signed his name other than "John S.") appears not to have shared his private thoughts, or opened up to anyone. Mr. Olson, whose writing is occasionally weakened by his straining for the unusual phrase, has painted Sargent's portrait against a lavishly detailed background: his expatriate American family, including the crippled sister with whom he made his home; a large circle of affectionate and interesting friends; the Salon and Royal Academy painters of the fin de siècle, many of whom had been fellow-students in Paris; and the rich and the titled whose features, and clothes, he painted for healthy fees until the day he sickened of the game, said "No more paughtraits. No more mugs," and took to more congenial subjects. Photographs.

NOTE: "Spring Jaunts," a collection of travel pieces by Anthony Bailey, has been published by Farrar, Straus & Giroux ($16.95). All the contents originally appeared in *The New Yorker*.

MYSTERY AND CRIME

TAMING A SEA-HORSE, by Robert B. Parker (Delacorte; $15.95). Young,

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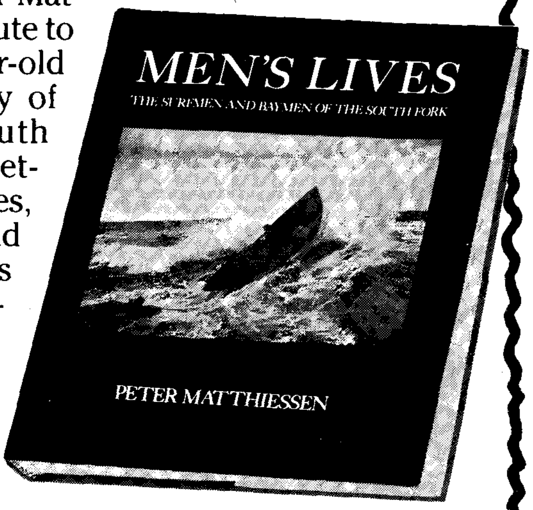

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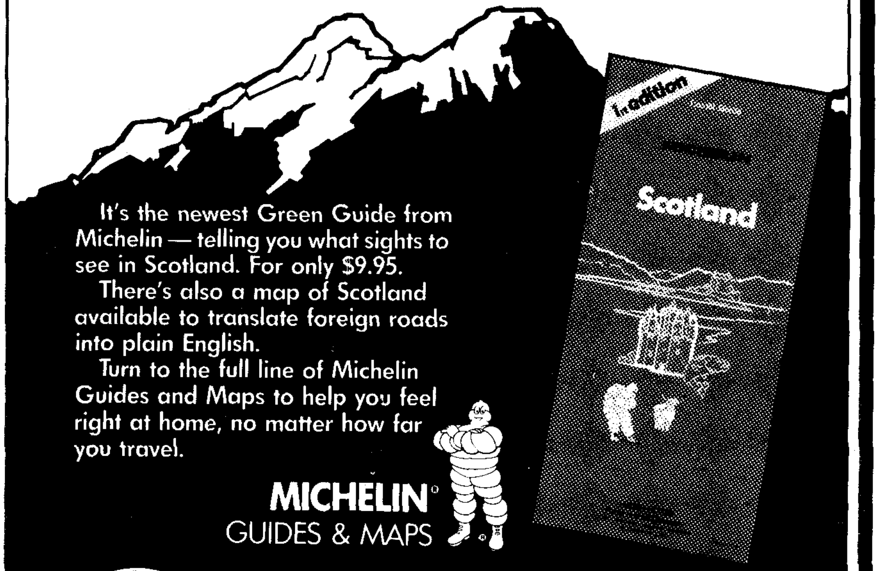

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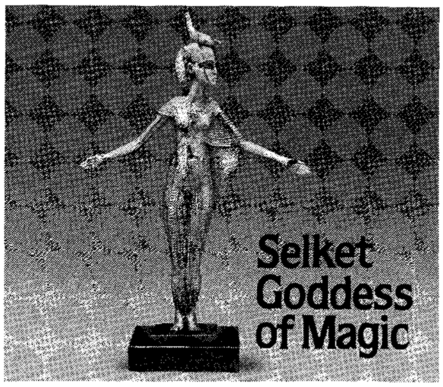

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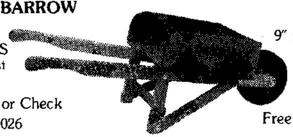
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sexy April Kyle, whom Spenser, the multitalented Boston private detective, helped a book or two back by placing her in a high-class Manhattan whorehouse, has suddenly disappeared, and her madam wants her found. Spenser, with some help from Susan Silverman, the Jewish psychotherapist who is his troubled girlfriend, and Hawk, his ferocious black sidekick, outthinks and outpunches a dozen undesirables and ends with his mission rather equivocally accomplished. This is a thin story, but it is agreeably fattened by sassy dialogue, by unsparing details of Spenser's taste in food and drink, by a comprehensive rundown on what every man and woman in sight is wearing, and by his frequent bedding of the more than willing Susan. There is also a certain amount of presumably accurate information about prostitution as a trade and an industry.

THE VENUS VENTURE, by Hugh Zachary (Vanguard; $13.95). A little gang of mostly Americans—a tugboat captain, an airplane pilot, a brainy journalist, his lovely wife, etc.—hijacks the Venus de Milo as it is en route from the Louvre by train to Moscow for a good-will appearance, and demands a ransom of thirty million dollars. But the gang reckons without Pierre Boudreau, *chef de la garde du corps*, whose feeling for the statue is one of almost insane intensity. Mr. Zachary's story is a trifle, but it is a pleasurable trifle in which every character is interestingly likable and everybody's ending is happy.

•

AUSTIN, Texas—A better-than-expected 96.7 percent of Texas educators passed the literacy test that teachers have fretted and fumed over since the legislature imposed it as a condition for keeping their jobs.

"It's great to be alive in Austin, Texas, today. The teachers did fantastic!" State Education Commissioner Bill Kirby beamed in announcing test results Thursday to the State Board of Education.—*Madison* (*Wis.*) *Capital Times.*

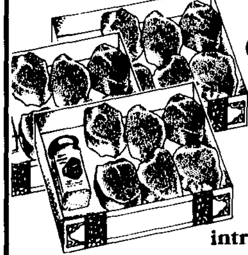
Wipe that beam off your face, Kirby.

•

SILVER LINING DEPARTMENT

[*From the newsletter of the Barton Center for senior citizens, in Lakewood, Ohio*]

APR 11 12:45 PM ADVOCACY—Guest speaker, Marjorie Cain, legal aide, will discuss and explain "The Living Will." Afterwards she'll play the accordion.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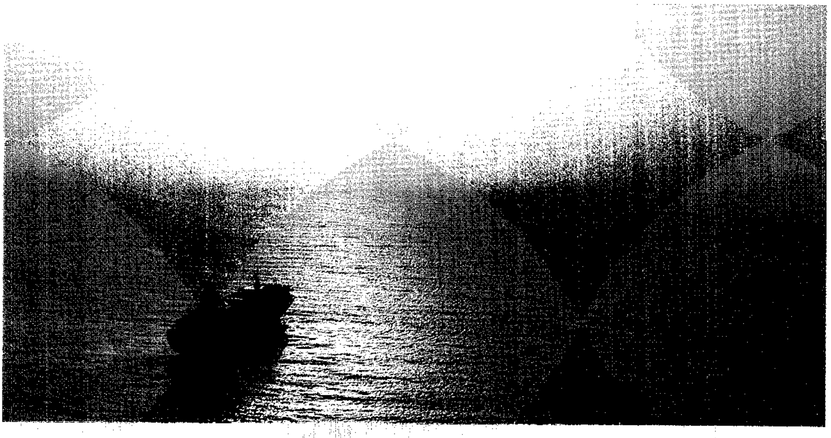

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